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ABSTRACT

Education for citizenship in a free society has long been a primary goal of social studies education. Knowledge of the Constitution, its principles, values, history, and application to contemporary American Life is an essential of citizenship education and this book is intended to stimulate interest and improvement in teaching practices on the Constitution. The book is organized into three chapters. Chapter 1 assesses the status of the Constitution in the current secondary school curriculum; Chapter 2 presents several types of lessons and teaching strategies that have been used successfully in secondary school courses on American history, government, and civics; and Chapter 3 reviews current projects and learning materials developed especially for the Bicentennial. Appendixes, which make up more than half the volume, present seven model lessons which exemplify teaching strategies discussed in chapter 2. Also provided is an extensive select bibliography which includes ERIC resources on teaching about the Constitution, books on constitutional history and principles of government, and computer software for teaching about the Constitution. (KWL)

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Education on the Constitution in Secondary Schools

Teaching Strategies and Materials for the Bicentennial and Beyond

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EDUCATION ON THE CONSTITUTION IN SECONDARY SCHOOLS: TEACHING STRATEGIES AND MATERIALS FOR THE BICENTENNIAL AND BEYOND

by
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Richard C. Remy
Mary Jane Turner

Social Studies Development Center
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INTRODUCTION

Education for citizenship in a free society has been a primary goal of the social studies. Knowledge of the Constitution, its principles, values, history, and application to contemporary American life, is a necessary element of citizenship education. However, education on the Constitution, although established firmly in the curriculum of secondary schools, has suffered from neglect and routine treatment in history, government, and civics courses. Furthermore, the connection of education for citizenship and studies of the Constitution is not as secure or obvious in the secondary school curriculum as it has been or should be. The bicentennial of the Constitution in 1987 provides a unique opportunity to improve education about core concepts and values of citizenship and government in a free society and to celebrate one of the most important legacies Americans have.

We Americans can be proud that the United States, one of the world's youngest nation-states, has the oldest written Constitution. There are more than 160 written constitutions in today's world, and nearly two-thirds of them have been adopted or fundamentally revised since 1970. Only eleven of the world's constitution's pre-date 1945. In 1787, Americans were the original constitution-makers of the modern world—the first to hold a convention for the single purpose of deliberating and deciding upon their frame of government. Americans were also inventors of the ratifying convention, a means for elected representatives of the people to meet solely to examine a proposed Constitution and to decide in the name of the people, by majority vote, to ratify or reject it. Thus, our Constitution was established as the supreme law of the land through popular acts of deliberate and uncoerced consent. Alexander Hamilton noted, in the first essay of *The Federalist*, the critical importance of the constitutional choice facing Americans in 1787: "It has been frequently remarked that it seems to have been reserved to the people of this country, by their conduct and example, to decide the important question, whether societies of men are really capable or not of establishing good government from reflection and choice, or whether they are forever destined to depend for their political constitutions on accident and force."

Hamilton's observation will always be relevant in the American constitutional democracy, because every generation of citizens must reaffirm commitment to core concepts and values of its frame of government. If not, the Constitution would become little more than words on paper without vital meaning in the lives of citizens or the operations of government. Thus, the Constitution is a people's document, which the people must be able to interpret in order to intelligently consent to it, and resolve issues about it that affect them. Of course, intelligent popular consent to the Constitution, and application of it to civic affairs, requires sound education about core concepts and values of our frame of government.

In line with the preceding assumptions about constitutional choice and citizenship in a free society, this volume is intended to stimulate interest and improvement in secondary school education on the Constitution for the bicentennial and beyond. Thus, we have (1) assessed the status of the Constitution in the curriculum of secondary schools, (2) presented exemplary lessons and teaching strategies on the Constitution for use in secondary school courses on American history, governmetn, and civics, and (3) reviewed current projects and learning materials developed especially for the bicentennial. An extensive select bibliography has been prepared for teachers, which includes ERIC resources on teaching about the Constitution, books on constitutional history and principles of government, and computer software on the Constitution. We hope that this work will assist educators to renew and revitalize teaching about the Constitution. Furthermore, we hope to spark and sustain interest in and commitment to education on core concepts and values in the Constitution during the bicentennial and the years afterward.

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1. THE CONSTITUTION IN THE CURRICULUM

THE BICENTENNIAL of 1987, the 200th anniversary of the American Constitution, is a grand occasion for renewal and improvement of education about core values and concepts of a free government. This is a special opportunity to encourage teaching and learning about the Constitution as a symbol of national unity, continuity, and values and as a practical instrument of popular government. Americans who do not understand the Constitution, as both a symbol of nationhood and means of governance, are unable to appreciate their civic culture and to act effectively as citizens of a free society.[1]

Curriculum guides and textbooks for courses in American history, government, and civics treat the origins, development, and main concepts of the Constitution. However, recent studies have indicated the need to improve education on the Constitution in secondary schools.[2] In this chapter, we consider the status of the Constitution in the curriculum. What have our schools been expected to teach about the Constitution? What is currently being taught in secondary American history, government, and civics courses? What knowledge and attitudes are students developing regarding the Constitution? What needs for improvement of education on the Constitution are indicated by findings about the status of the Constitution in the curriculum?

What Are Schools Expected to Teach?

The depth and extent of the schools' responsibilities for teaching about the Constitution are shaped in part by societal expectations. In our democratic system of education, the curriculum of public schools ultimately reflects societal judgments about what should and should not be taught. However, "society" is not monolithic and various individuals and groups within society may want quite different things from the schools at the same time.

Consideration of society's expectations for teaching about the Constitution represent one perspective, a top-down view of the place of the Constitution in the curriculum. What have been society's expectations for instruction in the schools about the Constitution? What mandates are in force today for teaching the Constitution in secondary schools? What are typical goals of education on the Constitution in American secondary schools?

Expectations Have Varied. From the 1790s until today, education about the Constitution has been a concern of American secondary schools. R. Freeman Butts, however, has clearly documented that emphasis on the importance of teaching the Constitution has varied considerably throughout American history.[3] Such variations have reflected important trends and events in the development of American society.

During our first hundred years, great importance was attached to education about the Constitution, reflecting the need for the new republic to develop a common symbol of political identity and legitimacy. Teaching strategies consisted primarily of question and answer methods that involved rote memorization and clause-by-clause explication of the text of the document. No attention was given to contemporary constitutional issues or changing interpretations of the meaning of the Constitution.

A prize winning essay on the best system of liberal education for the new nation captures the flavor of this era. Writing in 1796, Samuel Harrison Smith proposed that secondary school students had the duty "to commit to memory and frequently repeat the Constitution and the fundamental laws of the United States."[4]

During the last decade of the 19th century and at the start of the 20th, attention to the Constitution in secondary schools declined dramatically. Progressive educators reduced the constitutional concerns of civic education in favor of a "problem approach" to teach citizens to deal with state and local social problems. This development was clearly reflected in the National Education Association's influential 1918 report, *Cardinal Principles of Secondary Education*. The report and the contributing work of the NEA's Committee on the Social Studies, in effect, divorced education for good citizenship from teaching about the Constitution in the social studies curriculum. The report stated:

> While all subjects should contribute to good citizenship, the social studies—geography, history, civics and economics—should have this as their dominant aim. Too frequently, however, does mere information, conventional in value and remote in its bearing, make up the content of the social studies. . . . Civics should concern itself less with constitutional questions and remote governmental functions and should direct attention to social agencies close at hand and to the informal activities of daily life that regard and seek the common good.[5]

Diane Ravitch notes that, in the decades following the NEA report, the social studies curriculum moved "decisively toward current events, relevant issues and pupil-centered courses."[6] By the 1960s and 1970s, the study of constitutional government had come to compete for attention in the social studies with an increasingly diverse set of topics related to concerns about current social issues and problems. These topics included energy education, environmental education, gun control education, future studies, consumer education, free enterprise education, and global education among others.[7]

During the 1960s and 1970s, a "new social history" dominated scholarship and teaching of university historians. Political history, including constitutional history, was displaced from its central position in the curriculum. The study of women, blacks, workers, ethnic groups, and so forth overshadowed personalities, ideas, and events in constitutional history. Michael Kammen concludes, in his study of contemporary historical scholarship in the United States, that "political history is no longer the focal point for historical scholarship." Kammen believes that "during the decades following 1965, the history of politics became a distasteful subject to many."[8] Hazel Hertzberg's study of history teaching in secondary schools supports Kammen's conclusions about the decline of political and constitutional history and the prominence of socially relevant topics in the curriculum.[9]

During these same decades (1960s and 1970s) a law-related education movement developed which captured the "liberal impulses" of the period by advocating attention to individual rights and civil liberties as the essential core of teaching about the Constitution.[10] The law-related education movement has grown rapidly across the United States and has emphasized concerns of many segments of society that teaching about the Constitution should attend to constitutional conflicts and controversies associated with current social issues. Butts observes that "no other movement in social studies has given as much explicit attention to the rights and liberties related to the constitutional concepts and meanings."[11]

What seems to have been missing in curriculum development and teaching is a satisfactory blending of social history and constitutional history, of current social issues and enduring principles of constitutional government. Kammen emphasizes the need to "strike a balance" of social and political (constitutional) history. He argues that "successful integration of these two types of historical 'events' is surely a major challenge to historical scholarship during the decades ahead."[12]

The bicentennial of the Constitution has provided an occasion to respond to Kammen's challenge. During the past five years, there has been a great resurgence of interest among scholars and teachers about the history and principles of American constitutional government. Project '87 of the American Historical Association and American Political Science Association has sponsored conferences, research projects, and curriculum development activities about constitutional history and principles of government in the Constitution.[13] Leading historians, such as Forrest McDonald, Richard Morris, and Michael Kammen have produced new books on the Constitution.[14]

Educational reforms in secondary schools also are contributing to greater concern about the Constitution in the general education of citizens. In the 1980s, numerous national commissions and reports have alerted the public to deficiencies in school programs and needs for improvement in curriculum and teaching.[15] Some of the proposals for reform have direct implications for teaching about the Constitution. Reformers, for example, have pointed to the need to bring coherence and integrity to curricula that were disordered and overextended during the 1970s through proliferation of new courses and excessive addition of trendy topics to old courses. Some have called for core content, essential subjects that all students should learn, which would include knowledge from the basic academic disciplines of history, geography, political science, and economics. These developments, coupled with heightened public awareness of the importance of the Constitution prompted by the bicentennial, would seem to provide a favorable climate for efforts to strengthen teaching about the Constitution.

Current Mandates and Goals on the Constitution. State governments have primary responsibility for establishing what shall be taught in the 16,000 local school districts across the nation. An examination of state mandates provides another perspective on the nature of the society's expectations for education on the Constitution. The American Bar Association has undertaken the most comprehensive review of state mandates related to the Constitution.[16] The ABA found state level mandates to teach the Constitution to be nearly universal. Statutes in forty-three states prescribe the study of the U.S. Constitution. The remaining states usually require such instruction through regulations passed by state boards of education or state departments of education. These mandates to teach the Constitution almost always complement mandates that require the study of U.S. history, civics, and governmental systems.

Most statutes simply require attention to the Constitution in general terms while leaving specifics as to the content and emphasis of instruction to state departments of education and local districts. For example, the Ohio statute requires, "Basic instruction in . . . the Declaration of Independence, the United States Constitution and the Constitution of the State of Ohio. . . ."[17] The Virginia statute states: "An outline shall likewise be given of the Constitution of the United States and the general principles of the Constitution shall be carefully explained."[18]

At the same time, approximately eighty percent of these laws identify specific values and attitudes that should be promoted. According to the ABA study, most of these codes stress "the duties, responsibilities, and obligations of citizenship much more often

than they enumerate the rights of citizens." The statutes stress "love of country," "patriotism," "loyalty," or "devotion to American institutions and ideals."[19]

Noticeably absent from state level mandates are any specification of citizenship skills related to the Constitution. State mandates, for example, have nothing to say about the importance of civic decision-making skills in regard to basic constitutional issues.

While the direct impact of state mandates on daily classroom instruction is problematic, most states do provide sanctions for non-compliance. Sanctions may be aimed at students through graduation or promotion requirements. Thirteen states, for instance, require students to pass a Constitution test for graduation. In many states, sanctions are directed at teachers or administrators who may be fined, dismissed, or lose their certificates for non-compliance.

Educational goals related to state mandates reveal that constitutional history and government are established parts of the curriculum. Curriculum guides of state education departments include ample lists of concepts about American constitutional government and topics in constitutional history. These lists of goals reveal that students are expected to learn about federalism, separation of powers with checks and balances, judicial review, civil rights and liberties, and various constitutional changes from 1789 to the present.[20] However, these curriculum guides also list numerous other desirable outcomes of education in the social studies pertaining to a broad range of concerns from environmental issues and global perspectives to social change and futuristic studies. The educational agenda is cluttered, and priorities often are unclear. In many school districts, goals on the Constitution may be viewed as no more important than a vast array of competing purposes of education in the social studies. The consequence may be an underemphasis on education about the Constitution relative to other topics of lesser importance in general education for citizenship in a free society.

Conclusions. The United States Constitution is a vital, contemporary document in American self-government. Current legal mandates, curriculum guides, and societal expectations recognize the importance of the Constitution to our nation's daily workings and to the life of every citizen of the United States. It is clear that the Constitution has an established place in the secondary school curriculum. It is also clear that recent trends in scholarship and teaching have clouded or diminished education on the Constitution as a central or fundamental purpose in secondary schools. However, the bicentennial of 1987 has stimulated a resurgence of interest in improving education about American constitutional history and government. Current curriculum studies and reports have even recommended the "teaching of United States history with a constitutional focus."[21] It seems that there is a solid foundation for renewed efforts to strengthen the place of the Constitution in the curriculum of secondary schools.

What Is Taught About the Constitution?

Societal expectations, state mandates, and lists of goals in curriculum guides provide one view of the status of the Constitution in the secondary school curriculum. Another perspective is provided by examination of constitutional content actually presented to students across the nation. In the secondary grades the Constitution is usually taught as part of these courses: eighth-grade American history (2-3 million students), ninth-grade civics (about 3/4 million students), eleventh-grade American history (3-4 million students), and twelfth-grade government (1-1 1/2 million students).[22]

Basal textbooks are a significant indicator of what students actually study about the Constitution in these core courses. The textbook is the dominant instructional tool in teaching secondary school social studies. Teachers tend to rely on a single text as the central instrument of their classroom instruction and as a key source of knowledge.[23] Furthermore, in most schools textbooks are main sources of curriculum planning, course objectives, and daily lesson planning.[24] Approximately 80 percent of all curriculum decisions in the nation's schools are made on the basis of a textbook.[25]

Project '87 of the American Historical Association and the American Political Science Association has sponsored comprehensive analyses of the quality and scope of textbook treatments of the Constitution. These studies, along with a 1985 review of textbook treatments of federalism, present a detailed picture of the status of instruction about the Constitution in secondary schools.

Treatment in History Textbooks. John Patrick analyzed ten widely used American history textbooks.[26] Five books were designed for the eighth-grade history courses, and five were published for the eleventh-grade course. The Patrick study focused on three main questions: (1) What is the extent of textbook coverage of constitutional topics? (2) How is the constitutional period (1776-1789) treated in the textbooks? (3) How is the development of the Constitution (1789-1980) treated in the textbooks?

All the textbooks reviewed included a copy of the Constitution—with annotations and other instructional aids. As to coverage of constitutional topics, less than 12 percent of the content of the books studied pertained directly to instruction about the Constitution—its origins, development, and content. The eleventh-grade books devoted from nine percent to eleven percent of their content to the Constitution

and the eighth-grade books spent from seven percent to eleven percent. These findings led Patrick to conclude that "coverage of constitutional topics is not excessive. Teachers and students who rely on these textbooks will not receive an overdose of constitutional history."[27]

How is the constitutional period treated in history textbooks? Both eighth-and eleventh-grade books describe the creation and content of the Articles of Confederation, the weaknesses of the Articles, and the problems confronting the young nation which led to the Constitutional Convention. These books describe the Convention, with emphasis on the various compromises. Further, the textbooks treat the struggle over the ratification of the Constitution. The number of pages devoted to these topics ranged from 9 to 23 in the eighth-grade books and 9 to 30 in the eleventh-grade books.[28]

Treatment of the Constitutional Convention was very brief in the books Patrick reviewed. Only four of the ten history textbooks had more than four pages on the topic. The delegates were portrayed as men of good will who sought to resolve crucial political problems that threatened the life of the republic. All the books failed to discuss the ambiguous division of powers between the national government and the states resulting from the Constitutional Convention. Nor did these texts connect ambiguity about the locus of sovereignty within the federal union to development of critical constitutional issues that threatened national stability and unity during the nineteenth century.

How do history textbooks treat the development of the Constitution over time through formal and informal changes? All the textbooks Patrick analyzed included discussion of constitutional amendments, judicial interpretations of the Constitution, and adaptation of the Constitution through custom and usage. Issues related to the meaning of federalism, separation of powers, civil rights, and judicial review were treated within the texts' chronological framework.

Treatment of these topics, however, was often very thin. There was scanty coverage of amendments; from three to five pages in the eleventh-grade books and from two to seven pages in the eighth-grade books. And there was little or no discussion of the issues and political actions of contending groups interested in supporting or opposing proposed amendments.

As for judicial interpretations of the Constitution, both eighth-and eleventh-grade books treated the concept of judicial review superficially, allocating, in the case of four books, only two or three sentences to the concept. In addition, Supreme Court cases were treated very sketchily, dissenting opinions were not mentioned, and some landmark decisions were not included in the texts. Only three of the ten books, for example, mentioned *ex parte Milligan*.

More importantly, the history textbooks Patrick analyzed failed to show connections between Supreme Court decisions of different eras. None of the eighth-grade textbooks, for example, mentioned the Plessy case in their descriptions of the 1954 Brown decision. Without supplemental instruction from the teacher, students using these texts would not learn about the connection between the Supreme Court decision that buttressed the "separate but equal doctrine" and the case that overturned the legal basis for separate schools. Such failure to show linkages between certain cases could limit students' comprehension of bases for continuities and change in the meaning of the Constitution.

Patrick also found that history textbooks at both grade levels lacked descriptions of the development of the Supreme Court's powers and duties vis-a-vis the President and Congress. None of the texts showed how Supreme Court dictum only gradually came to be accepted as the final word upon constitutional questions. Thus, students relying on these textbooks would not learn that in the decades between 1790 and the Civil War congressional debates were a major source of constitutional doctrine. Nor would they learn how and why the federal judiciary's authority grew as it did after 1860.

Numerous aspects of our constitutional system have been modified through custom and usage. All the history textbooks discuss major political events of American history that have shaped informal constitutional development, such as the Louisiana Purchase or President Lincoln's assumption of extraordinary powers during the Civil War. However, the texts did not connect such significant political events to the Constitution. As a result, students who rely on such textbooks would not be likely to learn how actions of important political leaders have led to informal and lasting changes in the meaning of the Constitution.

In 1985, Ellis Katz analyzed the treatment of federalism in high school history and government textbooks.[29] Katz reviewed five high school history texts. Two were new editions of those reviewed by Patrick; two were not in the Patrick review; one was the same as in the Patrick review.

Katz found the history textbooks presented adequate discussions on the meaning of federalism as part of their descriptions of the framing of the Constitution. Some of these discussions were "quite sophisticated" and Katz concluded that "these provide the teacher with ample information for a useful discussion of federalism."[30] Similarly, these texts recognized the importance of federalism in their descriptions of American politics through the Civil War. However, the history textbooks largely ignored

the role of federalism in American political history after the Civil War. Katz concluded that these textboooks "seem to suggest that federalism has been irrelevant to the development of the United States over the past 120 years."[31]

Treatment in Civics and Government Textbooks. Richard Remy analyzed five widely used twelfth-grade American government textbooks and five ninth-grade civics textbooks.[32] Four questions guided the Remy study: (1) What is the extent of textbook coverage of constitutional topics? (2) How is the content and development of the Constitution treated in the textbooks? (3) How is the constitutional period (1776-1789) treated in the textbooks? (4) How are major constitutional principles such as separation of powers treated in the textbooks?

As to the extent of coverage of constitutional topics, less than one-quarter of the content in any of the books reviewed was devoted directly to instruction about constitutional topics. Government textbooks devoted from 12 to 23 percent of their content to constitutional coverage; civics textbooks ranged from 13 percent to 21 percent.[33] Even allowing for differences in publishing technology, this stands in great contrast to the textbooks for courses in "civil government" one hundred years earlier. Butts has noted that earlier texts devoted from 70 to 85 percent of their pages to the Constitution and national government.[34]

How do government and civics texts present the Constitution and its development? While all the texts reviewed contained copies of the Constitution, none did a very good job of presenting the document in ways that facilitated students' reading the Constitution with meaning. Three of the government texts did not annotate the Constitution, and in most other books the annotations were quite limited.

Surprisingly, the government textbooks did not clearly define the concept of constitution. Further, both the government and civics textbooks neglected completely to define, explain, and demonstrate the Constitution's pervasive role in our political system. None of these books, for example, attempted to develop for students ideas about the purposes served by the Constitution as both symbol of the American nation and as a daily instrument of government. In short, these texts largely overlooked the impact of the Constitution for both our personal and our collective national life.

As for development of the Constitution, all the books reviewed by Remy presented brief descriptions of the formal procedures to amend the Constitution while ignoring the politics associated with such procedures. None of these books, for example, discussed the critical role Congress plays in the political give and take of the formal amendment process nor did they describe the role of interest groups, lobbying in state legislatures, and public opinion in the amendment process. Descriptions of informal means of changing the Constitution were very limited in the government texts and ignored in the civics books.

How do textbooks treat the constitutional period (1776-1789)? Government and civics textbooks examined in the Remy study contained some material on the Articles of Confederation, the Constitutional Convention, and the struggle for ratification. None of the books reviewed devoted more than three percent of its content to the constitutional period. Government and civics books tend to leave detailed discussions of this topic to history books and courses, and they typically offer only brief sketches of the key issues and events of the constitutional period in order to establish some basis for their subsequent detailed descriptions of government and politics.

The textbooks present brief descriptions of the Constitutional Convention. All the government texts in the Remy study mentioned the conflict between large and small states in terms of the New Jersey and Virginia Plans, and all at least summarized the major compromises. Neither government nor civics texts portrayed the Convention as a dynamic political event. Teachers and their students would have to go beyond these textbooks to gain an appreciation of the Framers as skilled politicians who, "drawing on their vast collective political experience, utilizing every weapon in the politicians arsenal, looking constantly over their shoulders at their constituents . . . put together a Constitution."[35]

The Constitution embodies principles of governmental organization that establish the character of the American system of government. Scholars often identify separation of powers, federalism, judicial review, and limited government as major constitutional principles.[36] How do government and civics textbooks treat such principles?

Discussion of constitutional principles usually appears early in these books either in a chapter on the Constitution or in a chapter on its origins. None of the government or civics books in the Remy study treated major constitutional principles as concepts which students could learn and then use in their further study of national government and American politics. Instead, after initial definition, the principles rarely appeared again in the textbooks reviewed. Thus, students were not being asked to use a principle to organize information or help explain some aspect of government. Nor was subsequent material often presented as an illustration of a constitutional principle.

Both government and civics texts analyzed by Remy confined their treatment of federalism primarily to describing the constitutional allocation of powers

between the national and state governments. These descriptions were usually based on the familiar classifications of delegated, implied, inherent, reserved, and concurrent powers. The dynamics of the federal system and important aspects of federalism's role in American politics were omitted.

Results from Katz's study of federalism in five government textbooks are congruent with Remy's findings. Katz reviewed two books published after the Remy study, later editions of two books analyzed by Remy, and one that was the same. Katz's findings were similar to those in the Remy study. In addition, Katz concluded that the "authors tend to view federalism as simply another constitutional device to obstruct governmental action, rather than as an underlying principle designed to foster power-sharing arrangements."[37]

The Supreme Court and judicial review play a key role in applying the Constitution to contemporary political life. Yet the texts in the Remy study gave little attention to judicial review, with coverage ranging from one page to six pages. The civics texts analyzed gave even less attention to this principle. The principle of separation of powers received similarly brief treatments.

The government textbooks analyzed by Remy devoted more attention to limited government than any other constitutional principle. On the whole, these texts taught about the First Amendment and the rights of the accused by summarizing relevant Supreme Court cases. Unfortunately, cases were usually summarized in an abrupt manner, and the constitutional bases of the decisions were not elaborated; in many instances they were not mentioned. Most of the civics books in the Remy study confined their brief discussions to the First Amendment.[38]

Conclusions. These textbook studies reveal common deficiencies in textbook treatments of the Constitution, which include shallow treatment of basic constitutional principles, lack of historical continuity in treating issues, inadequate descriptions of Supreme Court decisions, lack of attention to political dynamics associated with processes of constitutional choice, and insufficient attention to connections between constitutionally relevant issues and events. Critical comments, however, should not be interpreted as a denigration of secondary school American history, government, and civics textbooks. Many of the texts provide adequate, if limited, factual descriptions of constitutional material. The better textbooks can be very effective means to attain certain objectives, such as transmission of information and development of specialized vocabulary.

In addition, textbooks can and do change. Since the Patrick and Remy studies, several new textbooks have been published, and several of those reviewed have been revised. Some of these textbooks display real, if incremental, improvements in the quality and extent of treatments of constitutional topics. Furthermore, activity books and teacher resource books, which publishers produce to supplement their textbooks, are more likely today, than in the recent past, to include worksheets and learning activities about constitutional topics. Finally, several publishers have recently produced special resource books or handbooks on the Constitution. The increased attention of publishers to the Constitution undoubtedly is related to the bicentennial of 1987; it will be sustained and enhanced only if teachers and other members of textbook selection committees demand ample, high quality treatments of the Constitution in these educational materials.

However, the proportion of textbook space that can be given to constitutional topics is limited, given other topics that need to be covered. Furthermore, textbooks are only one medium of instruction available to a teacher; they should be combined with other media to create a comprehensive system of instruction, which is managed by the teacher. That system can also include supplementary books, readings and pupil exercises, and a wide array of audiovisual materials. Good teaching that creatively uses such resources can build on textbook strengths as well as correct for textbook gaps and weaknesses.

What Do Youths Know and Believe About the Constitution?

Findings about the political knowledge and attitudes of teenagers provide an additional perspective on the status of the Constitution in the curriculum. Since more than 90 percent of today's 17- and 18-year-olds graduate from high school, such findings are one measure of the impact of teaching about the Constitution on student learning.

Several assessments of citizenship and social studies by the National Assessment of Educational Progress (NAEP) constitute a source of national data on secondary school students orientations toward the Constitution. NAEP surveyed 9-, 13-, and 17-year-olds in 1969/70, 1971/72, 1976, and 1982.[39] The Purdue Youth Opinion Poll conducted by H. H. Remmers and colleagues from the mid 1940s until well into the 1960s, along with a 1984 replication, provide additional data as do several political socialization studies.

Knowledge About the Constitution. What do students know about the Constitution? No major national study has focused directly on this question. However, existing findings allow us to gauge student knowledge with respect to these topics relevant to the Constitution: comprehension of democracy, the

structure of government, constitutional rights, and recognition of government officials.

What do students understand about the meaning of democracy? NAEP results show that a large number of students, especially 9- and 13-year-olds, have great difficulty describing what is meant by "democracy" on an open-ended question. While about three-fourths of 17-year-olds could give some description of democracy, only 42 percent of the 13-year-olds and two percent of the 9-year-olds provided acceptable answers in the 1976 assessment.[40]

A study of the political involvement of 1,000 Pennsylvania high school seniors by Roberta Sigel and Marilyn Hoskin revealed similar results. Forty-four percent of the students gave "simplistic" definitions of democracy, and another 14 percent gave no definition or an incorrect one.[41] Sigel and Hoskin concluded, "most students exhibit some cognizance of democratic principles, but it is not at all clear whether they comprehend their meaning and implications. At times one cannot help but think that these principles are only slogans to the students."[42]

What is the level of student knowledge about the structure of government under the Constitution? A majority of 13- and 17-year-olds in NAEP assessments display knowledge of the obvious features of American governmental institutions. By the time they graduate from high school most adolescents know basic facts about government, such as that Congress is composed of two houses, that the power of public officials is limited by law, that certain public officials are elected to office while others are appointed, and that responsibilities for providing various public services are divided or shared by federal and state governments.[43]

Political knowledge scores among teenagers have shown some improvement in recent years. Scores for both 13- and 17-year-olds on questions related to the structure and function of government improved by about 2.5 percentage points between the 1976 and 1982 assessments. Black students showed greater knowledge gains than white students, and students whose parents had higher levels of education.[44]

The knowledge gains registered by NAEP were also reflected in a more modest national survey of high school seniors conducted in 1984 by Stanley Elam. Elam replicated nine knowledge items used in 1951 by the Purdue Poll. Today's students scored better on all nine questions with the greatest gain shown on a question regarding the 19th Amendment, which asked the date when "women gained the right to vote." Thirty-eight percent of the Class of 1951 answered correctly while 91 percent of the Class of 1984 responded correctly.[45]

Most American youngsters appear to be aware of the purpose of basic rights included in the Constitution. Large majorities of 13- and 17-year-olds in the 1970 and 1976 NAEP assessments recognized the right to privacy, freedom of religion, and freedom of expressionas rights granted by the Constitution.[46] Similarly, in the 1982 assessment, for example, 62 percent of the 17-year-olds correctly identified the protection against double jeopardy.[47] For many students, awareness of rights is the key component in their concept of democracy. Thus, when defining democracy, 48 percent of the students in the Sigel and Hoskin study referred to some aspect of individual freedom (religion, speech, travel, career choice).[48]

Morris Janowitz's recent study of civic education in American schools points to excessive emphasis on individual and minority group rights and lack of attention to community obligations and responsibilities. He also claims that core civic values, which encourage national cohesion, have been slighted.[49]

Both younger and older adolescents score poorly on recognition of key public officials and political leaders. Although most teenagers can name the President and Vice-President, many have difficulty naming their senators, members of Congress, or governor. Most do not know the names of national political leaders such as the Senate Majority Leader, the Speaker of the House, or the Secretary of State.[50]

Survey research on adults reflects the findings on youth, particularly with respect to recognition of government leaders. Less than 40 percent of adults in one national survey completed for the U.S. Senate professed to be well informed about government or current political events.[51] Less than half the respondents could name both of their Senators or the Representatives to Congress from their district. Fewer than two-thirds knew that Congress is made up of the House of Representatives and the Senate, while 20 percent stated Congress consisted of the House, Senate, and Supreme Court.

Beliefs About the Constitution. Findings from assessment data and polls on student attitudes toward the Bill of Rights and respect for others sheds light on student beliefs about democratic principles embodied in the Constitution.

In the 1950s, the Purdue Youth Opinion Polls found youth to be more "authoritarian" than "democratic" in their attitudes toward the Bill of Rights. While students in the 1950s did support some rights such as trial by jury and protection against arrest without formal charges, they were less supportive of many other aspects of the Bill of Rights. Teenagers of the day endorsed censorship of books, newspapers, magazines, and other media as "protection of the public against improper ideas." Many students also thought wiretapping should be used by the police to scrutinize behavior. Sixty percent of the stu-

dents in a 1952 Purdue poll thought, "the police or FBI may sometimes be right in giving a man the 'third degree' to make him talk."[52]

In his 1983 study, Elam gave students the same 15 statements about various aspects of the Bill of Rights used in the 1952 Purdue Poll. An even greater proportion of today's students, displayed anti-democratic attitudes on 8 of the 15 items than did students in 1952. For example, a larger percentage of today's students were willing to allow a police search without a warrant, to deny legal counsel to criminals, and to accept restrictions on religious freedom.[53]

On several other items, while the Class of 1984 was slightly more democratic than the Class of 1952, the number of "uncertain" responses also increased. Elam found it "discouraging to see so many youngsters uncertain of so many traditional freedoms."[54]

Both the 1950 Purdue Polls and the Elam replication found a positive correlation between high knowledge scores and "democratic" responses to statements about constitutional issues. In short, the higher students scored on the knowledge test, the more likely they were to hold pro-democratic attitudes. These findings are supported by a large amount of research on adults which clearly shows that education is the most powerful predictor of civil liberties tolerance and support for other democratic principles embodied in the Constitution.[55]

American youth are more willing to accept general statements about the rights of minorities than to apply such rights in particular cases.[56] This tendency, developed in youth, has been clearly documented in numerous studies of the political attitudes of adults. Herbert McClosky and Alida Brill conclude that, "many Americans, though endorsing civil liberties in the abstract, reject them in their concrete applications."[57]

Students' attitudes toward civil liberties do not appear to be improving significantly. The NAEP data show a slight decline in constitutional rights performance between the assessments in the early 1970s and the 1976 assessment. The 1982 assessment found that on items measuring respect for the rights of others, performance of both 13- and 17-year-olds remained at the 1976 levels; students' knowledge of, and support for, constitutional rights improved at age 13, but did not change at age 17.[58]

The 1982 NAEP study found some important race and sex differences regarding constitutional rights and respect for others. On items measuring respect for the rights of others, females outscored males by nine percentage points at age 13 and eight percentage points at age 17. Blacks and disadvantaged urban students, who were typically farthest below the nation on items measuring knowledge of the structure and function of government, closed the gap on measures of respect for the rights of others.[59]

Conclusions. Various survey studies indicate American youths are learning rudimentary facts about the structure of government and their constitutional rights while gaining only a shallow understanding, at best, of the concept of democracy, which involves majority rule with protection of minority rights. There has been no research that directly measures either student comprehension of basic principles of government embodied in the Constitution or student knowledge of key features of the origins and development of the document.

Results regarding beliefs about the Constitution are not encouraging. Large numbers of American adolescents are failing to develop attitudes and values supportive of constitutional democracy. Furthermore, there seems to be little improvement over the last three decades in student acceptance of such attitudes. Education on the Constitution has not been successful in stimulating widespread adherence to basic democratic values embodied in the Constitution.

Summary and Recommendations

The Constitution is anchored in the curriculum of American secondary schools. State mandates, public expectations, and educational traditions indicate the secure place of constitutional studies in the general education of citizens. However, despite its unquestioned establishment in the curriculum, education on the Constitution has suffered from routine treatment and occasional neglect. This traditional subject has all too often been overshadowed by trendy topics and curriculum fads. A consequence of perfunctory or superficial teaching about the Constitution is shallow public understanding of and commitment to core values and concepts of our constitutional democracy. Too many Americans are insufficiently educated about their excellent frame of government.

Michael Kammen discusses public ignorance and misunderstanding of the Constitution in his recent study, *A Machine That Would Go Of Itself*. He notes that Americans tend to have great pride in the Constitution, but this veneration is not accompanied by ample knowledge and deep thought. Kammen laments "the ongoing reality that most of us do not adequately understand the Constitution." Furthermore, he claims: "The Constitution is too often neglected or poorly taught in American schools."[60]

The bicentennial of 1987 is an occasion for Americans to revitalize education on the Constitution by addressing these needs:

(1) Blend social and constitutional themes in secondary school American history courses.

(2) Integrate socio-political and constitutional studies in secondary school courses on American government and civics.
(3) Connect education on the Constitution firmly to citizenship education in secondary schools.
(4) Supplement brief or shallow textbook treatments of the Constitution with exemplary learning materials that provide detailed lessons on core concepts, values, and issues.
(5) Promote improvement of the quantity and quality of education on the Constitution in secondary school courses on history, government, and civics.
(6) Sustain the resurgence of interest in high-quality education on the Constitution during the years following the bicentennial of 1987.

NOTES

1. Edward S. Corwin, "The Constitution as Instrument and as Symbol," *American Political Science Review* 30 (December 1936): 1071-1085.
2. Needs for improvement of education on the Constitution are based on assessments of textbooks, supplementary curriculum materials, and knowledge and attitudes of learners, which were done for Project '87 and reported in H. Mehlinger, editor, *Teaching About the Constitution in American Secondary Schools* (Washington, D.C.: Project '87 of the American Historical Association and American Political Science Association, 1981), 1-27.
3. R. Freeman Butts, "Society's Expectations for School Instruction About the Constitution: An Historical Overview," in *Teaching About the Constitution in American Secondary Schools*, 1-27.
4. Quoted in Butts, "Society's Expectations," 3.
5. National Education Association, Commission on the Reorganization of Secondary Education, *Cardinal Principles of Secondary Education* (Washington, D.C.: Government Printing Office, 1918), 14.
6. Diane Ravitch, "Decline and Fall of Teaching History," *New York Times Magazine* (17 November 1985), 56.
7. Morris Janowitz, *The Reconstruction of Patriotism: Education for Civic Consciousness* (Chicago: The University of Chicago Press, 1983), 145-169.
8. Michael Kammen, "The Historian's Vocation and the State of the Discipline in the United States," in *The Past Before Us: Contemporary Historical Writing in the United States*, edited by Michael Kammen (Ithaca, New York: Cornell University Press, 1980), 35.
9. Hazel Whitman Hertzberg, "The Teaching of History," in *The Past Before Us: Contemporary Historical Writing in the United States*, edited by Michael Kammen (Ithaca, New York: Cornell University Press, 1980), 474-504.
10. Butts, "Society's Expectations," 21-22.
11. Ibid., 22.
12. Kammen, "The Historian's Vocation and the State of the Discipline in the United States," 39.
13. Project '87 is directed by Sheilah Mann, 1527 New Hampshire Avenue, N.W., Washington, D.C. 20036.
14. Forrest McDonald, *Novus Ordo Seclorum: The Intellectual Origins of the Constitution* (Lawrence: University of Kansas Press, 1985; Richard B. Morris, *Witnesses at the Creation: Hamilton, Madison, Jay and the Constitution* (New York: Holt, Rinehart and Winston, 1985); Michael Kammen, *A Machine That Would Go Of Itself: The Constitution in American Culture* (New York: Alfred A. Knopf, Inc., 1986).
15. See, for example, ASCD Task Force on Increased High School Graduation Requirements, *With Consequences For All* (Alexandria, Virginia: Association for Supervision and Curriculum Development, 1985); E.T. Boyer, *High School: A Report on Secondary Education in America* (New York: Harper and Row Publishers, 1983); C. Finn, Jr., D. Ravitch, and R. Fancher, editors, *Against Mediocrity: The Humanities in American High Schools* (New York: Holmes & Meier, 1984).
16. Joel F. Henning, et. al., *Mandate for Change: The Impact of Law on Educational Innovation* (Chicago: American Bar Association, 1979).
17. Charles J. White, "Mandates on the Curriculum," in H. Mehlinger, editor, *Teaching About the Constitution in Secondary Schools*, 72.
18. Ibid.
19. Ibid., 65.
20. Social Studies Curriculum Development Task Force, *A Guide to Curriculum Planning in Social Studies Education* (Madison, Wisconsin Department of Public Instruction, 1986), 87-103. The Wisconsin state curriculum guide includes representative examples of educational goals that are found in similar curriculum guides published by other state departments of education.
21. John T. Hyland, *Teaching United States History With A Constitutional Focus*. This paper was presented to an institute on the teaching of United States history sponsored by the California State University of Los Angeles and Region G, Los Angeles City Unified School District, August 4, 1986.
22. Richard E. Gross, "The Status of Social Studies in the Public Schools of the United States," *Social Education* 41 (March, 1979), 194-200. Some students (less than 1/4 million) take a short course—less than a semester—on the Constitution. This course is offered in a variety of grades.
23. J. P. Shaver, O. L. Davis, Jr. and S. W. Helburn, "The Status of Social Studies Education: Implications from Three NSF Studies," *Social Education* 43 (February 1979), 151.
24. Karen B. Wiley, *The Status of Pre-College Science, Mathematics and Social Science Education: 1955-1975*, Vol. 3 (Boulder, Colorado: Social Science Education Consortium, 1977), 80-81.
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27. Ibid., 101.
28. Ibid., 93-94.
29. Ellis Katz, "Federalism in Secondary School American History and Government Textbooks," in *Teaching About American Federal Democracy*, edited by S. L. Schecter (Philadelphia: The Center for the Study of Federalism, 1985), 91-98.
30. Ibid., 96.
31. Ibid., 97.
32. Richard C. Remy, "Treatment of the Constitution in Civics and Government Textbooks," in *Teaching About the Constitution in American Secondary Schools*, 107-128.
33. Ibid., 112-113.
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35. John P. Roche, "The Founding Fathers: A Reform Caucus in Action," *American Political Science Review* 55 (December 1961), 36, 779 and 812.
36. Peltason, *Understanding the Constitution*, 50.
37. Katz, "Federalism in Secondary School Textbooks," 94.
38. Remy, "Treatment in Civics and Government Textbooks," 122-123.
39. National Assessment of Educational Progress, *Political Knowledge and Attitudes 1971-1972*, Report 03-SS-01, (Denver: Education Commission of the States, 1973); National Assessment of Educational Progress, *The First Social Studies Assessment: An Overview*, Report 03-SS-00 (Denver: Education Commission of the States, 1974); National Assessment of Educational Progress, *Education for Citizenship: A Bicentennial Survey*, Report 07-CS-01 (Denver: Education Commission of the States, 1976); National Assessment of Educational Progress, *Changes in Political Knowledge and Attitudes, 1969-1976*, Report 07-CS-02 (Denver: Education Commission of the States, 1978); National Assessment of Educational Progress, *Citizenship and Social Studies Achievement of Young Americans: 1981-82 Performance and Changes Between 1976 and 1982*, Report 13-CS-01 (Denver: Education Commission of the States, 1983).
40. NAEP, *Changes in Political Knowledge and Attitudes, 1969-1976*, 23.
41. Roberta Sigel and Marilyn B. Hoskin, *The Political Involvement of Adolescents* (New Brunswick, New Jersey: Rutgers University Press, 1981).
42. Ibid., 117.
43. NAEP, *Political Knowledge and Attitudes 1971-1972 and NAEP, Citizenship and Social Studies Achievement of Young Americans: 1981-82*.
44. NAEP, *Citizenship and Social Studies Achievement of Young Americans: 1981-82*, 27-28.
45. Stanley M. Elam, "Anti-Democratic Attitudes of High School Seniors in the Orwell Year," *Phi Delta Kappan* (January 1984), 32.
46. NAEP, *Changes in Political Knowledge and Attitudes, 1969-1976*, 8.
47. NAEP, Citizenship and Social Studies Achievement of Young Americans: 1981-82, 14.
48. Sigel and Hoskin, *Political Involvement of Adolescents*, 115.
49. Morris Janowitz, *The Reconstruction of Patriotism: Education for Civic Consciousness*, 1-14 and 145-169.
50. NAEP, *Political Knowledge and Attitudes 1971-1972*, 19-27 and 43-47.
51. Lou Harris, *Confidence and Concern: Citizens View American Government* (Washington, D.C.: U.S. Government Printing Office, 1973), 77.
52. Elam, "Anti-Democratic Attitudes of High School Seniors," 329.
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2. TEACHING ABOUT THE CONSTITUTION: LESSONS AND STRATEGIES

What kinds of lessons and strategies should teachers use in secondary school classrooms to improve education on the Constitution? In this chapter, we discuss several types of lessons and teaching strategies that have been used successfully in secondary school courses on American history, government, and civics. Each type of lesson and strategy is defined, described, and justified as a successful means of teaching about the Constitution. Exemplars that fit each type of lesson and strategy discussed in this chapter, and that have been used successfully many times in secondary school classrooms, are included in the Appendixes (A-G). These exemplary materials were developed for Project '87 of the American Historical Association and American Political Science Association with support from the National Endowment for the Humanities. The materials have been reviewed by scholars and field tested by secondary school teachers of American history, government, and civics.[1]

Teachers are encouraged to use these lessons to extend and enrich textbook content on constitutional history and principles of government in the Constitution. Although the lessons are sound as designed, teachers should not hesitate to modify them to suit their courses and students. Furthermore, teachers are encouraged to use the exemplar lessons as models for creating their own lessons on the Constitution.

The following types of lessons and strategies are included in this chapter:

(1) Springboard Lessons: A Strategy for Launching Study.
(2) Concept Learning Lessons: A Rule-Example-Application Strategy of Teaching.
(3) Civic Decision Making Lessons: The Decision Tree Strategy.
(4) Supreme Court Case Study Lessons: A Strategy for Analysis of Judicial Decisions.
(5) Judicial Decision Making Simulation Lessons: A Discovery Learning Strategy.
(6) Historical Inquiry Lessons: A Strategy for Interpreting Primary Sources on a Constitutional Issue.

Springboard Lessons: A Strategy for Launching Study

As the name suggests, a "springboard lesson" launches student investigation of an issue, question, or topic. An effective "springboard" focuses attention of learners on certain educational objectives, arouses interest in the objectives, raises questions about them, and motivates students to purposeful, subsequent study to achieve the objectives. Learning activities that follow the "springboard" presumably are more meaningful to students because of the captivating lesson that initiated their studies.

One example of a "springboard lesson" involves use of public opinion polls to study civil liberties.[2] Teachers open the lesson by asking students to "agree" or "disagree" with a series of items, such as these:

1. Citizens should have the right to print any point of view they want to print, as long as it is true.
2. A citizen should have the right to voice any opinion he/she favors, which does not slander or include intentional lies.
3. Citizens should have the right to hold public meetings to express ideas.
4. Police and other civic officials have sometimes banned or censored certain books and movies in their cities. They should have power to do this for the good of the community.
5. The American Nazi Party wants to have a march and rally in our town, but town officials should not allow this to happen.
6. Newspapers that preach revolution should be banned.
7. Atheists should be allowed to give speeches on public radio or television.
8. Books that support Communism or Nazism should be removed from public libraries.
9. A woman should have the right to speak at a public school program urging that a law be passed that would limit the number of children a family can have.

These nine items pertain to rights of individuals or minorities to express ideas freely and limits on these rights on behalf of the community. After students have responded to the opinion poll, the teacher tabulates the results and displays frequencies and percentages of "agree" and "disagree" answers to each item. Next, there is class discussion of the responses, and the teacher asks students to identify and interpret patterns of responses. For example, nearly all students respond positively to items 1, 2, and 3 which represent agreement, in principle, with freedom of speech, press, and assembly. However, there usually are sharp disagreements about most of the other items, which pertain to application of a constitutional principle to various specific cases. Students will learn that abstract ideals, such as majority rule and minority rights and freedom, which virtually all Americans agree with, generate sharp clashes of opinion when they are applied to certain instances. Discussion of these instances will raise questions

and issues about the constitutional rights of individuals and minorities and limits that should be imposed on freedom of expression on behalf of majority rule and community needs. Students' attention is likely to be fixed on the main point of the lesson—ongoing tensions in a free society between majority rule and minority rights or between individual rights and limitations on those rights that reflect broad community concerns. Questions will be raised about constitutional rights and justified limits upon those rights, which can be examined in subsequent lessons.

Another example of a "springboard lesson" is included in Appendix A and is titled, "What Does The Constitution Say About Federalism?"[3] Students are asked to read ten statements that describe hypothetical actions of individuals, groups, and officials of state and national governments. Students are asked to decide whether each statement describes a situation in which the government officials comply with the Constitution. They are required to back up decisions about each of the ten items with references to specific parts of the Constitution, such as Article IV Section 3, Clause 1; Article VI, Clause 2; or Amendment X. This lesson requires students to identify and read purposefully parts of the Constitution that are relevant to points raised in this lesson. After completing responses to the ten items in this lesson, students are asked to express and defend their answers in class discussion. During this classroom discussion the teacher continually challenges students to give reasons for their answers and encourages students to ask one another to justify responses with interpretations of the meaning of certain parts of the Constitution. This discussion tends to be lively and to spark interest in numerous significant questions on the meaning of federalism as part of constitutional government and its application to the daily concerns of Americans. This lesson focuses attention of students on federalism and compels them to read pointedly the parts of the Constitution that treat federal-state relations. In this way, the lesson is a "springboard" to examination of certain parts of the Constitution. It can also be use to initiate detailed study of the meaning of federalism and issues about it, because this lesson is likely to raise intriguing questions that students can be assigned to investigate in subsequent reading assignments. This type of "springboard lesson" can be used to teach about any concept of American constitutional government.

Concept Learning Lessons: A Rule-Example-Application Strategy of Teaching

Education on the Constitution involves basic ideas of government, such as federalism, separation of powers, and judicial review. Too often, however, teaching and learning of these core concepts begins and ends with definitions, which are presented by the teacher and the textbook and repeated by students as evidence of achievement. Too rarely is there detailed examination of phenomena implied by the definition that involves use of it to organize and interpret information, which is a true test of concept learning. How can core concepts on the Constitution be taught effectively? The first step is recognizing that a concept can be viewed as a definition or criterion for assigning phenomena to a category. The criterion, or a set of criteria, is used as a rule for deciding which phenomena do or do not belong to a category. By using a definition as a rule for categorizing data, students gain ability to distinguish examples that do or do not belong in a category. Students who learn the concept of federalism, for example, can use a definition as a rule to distinguish examples of governments that fit the rule, such as the United States of America and India, from examples of unitary systems like France and Egypt.

The preceding view of concepts and concept learning provides a context for using a teaching strategy referred to as "rule-example-application."[4] How might a teacher use this strategy? Suppose the objective is to teach the concept of constitutional democracy. First, inform students that the main point of the lesson is to learn the meaning of constitutional democracy and how to use this idea to interpret facts about government and politics in the United States and elsewhere. Second, state a definition of the concept, constitutional democracy: government of the many (majority rule) restricted in scope and means to protect the rights of individuals and minorities.[5] Indicate that this definition is a rule for determining instances and non-instances of the concept. Third, present examples of governments that are, and are not, constitutional democracies to illustrate the definition or rule by which instances are distinguished from non-instances of the concept. Fourth, require application of the rule to new examples to determine whether students can use the concept to organize and interpret fresh data. In this case, students should be able to use the definition of constitutional democracy to identify the governments of Canada and France as examples of the rule and the governments of Iran and Uganda as non-examples. Through correct use of the rule to distinguish examples from non-examples of the concept, students demonstrate that they are learning the concept. The fifth and final step in this strategy is providing more opportunities for students to use the concept, such as requiring them to generate new examples of it or use it to analyze case studies of decision making in government.

In Appendix B, there is a lesson on the concept of federalism, which uses the rule-example-application

strategy; the title is, "The Principle of Federalism."[6] Students are taught a definition of federalism that refers to divison of power between two levels of government, state and national, and the unclear and changing line between the use of national and state government power in the past and present. Students are first taught to distinguish federalism from unitary and confederate forms of government and then are required to use their definition of federalism to identify examples and non-examples of it. Next, students are taught how powers are divided in the American federal system. They are shown examples of powers granted and denied to national and state governments and examples of concurrent or shared powers. Then they are challenged to use these categories about division and sharing of powers to classify several examples about the American federal system. In conclusion, students are confronted with several activities, including analysis of a case study on an issue about division of powers, which tests their ability to use the concept of federalism to organize and interpret information. This type of lesson, involving a rule-example-application teaching strategy, can be used to systematically present other core concepts of the American Constitution, such as judicial review, civil liberties, separation of powers with checks and balances, popular sovereignty, limited government and the rule of law, and so forth.

Civic Decision Making Lessons: The Decision Tree Strategy

Citizens in a constitutional democracy are free to assess alternatives and participate in civic decisions—choices about various kinds of public issues. Who should be elected to positions of leadership in government? What public policies should the leaders make? How should the frame of government be interpreted by policy makers? How should the Constitution be amended by representatives of the people? Indeed, the quality of government depends upon abilities of citizens to make and communicate choices to representatives in government. Therefore, the highest priority in civic education is development of civic decision making skills.[7]

How can civic decision making be taught effectively through lessons about the Constitution? One strategy involves case studies of policy decisions that have fundamentally affected the Constitution, such as President Jefferson's decision to purchase Louisiana or President Lincoln's decision to oppose secession of slave states. Cases of civic decision making may emphasize the executive and legislative branches of government, or they may be about choices of citizens involved in making or amending a constitution. Cases about the making of state constitutions in the "founding period" and modern times are excellent vehicles for teaching about civic decision making, as are cases about the ratification debates on the Constitution in 1787-88 and about certain amendments to the Constitution during the past two hundred years. Teachers can use these kinds of case studies to sharpen students' abilities to frame issues, clarify and elaborate upon alternatives, make connections between alternatives and their likely consequences, use values to rate alternatives as more or less positive or negative, and judge a decision as more or less desirable.

The decision tree is an analytical tool that teachers can use to help students analyze the civic decisions of others as well as make and defend their own choices. It is based on a problem solving procedure that involves mapping of alternatives and consequences in an occasion for decision.[8] How do students use a decision tree?

An example of a lesson that uses the decision tree—"Washington's Decision to Attend the Constitutional Convention"—is in Appendix C. This lesson is designed as a simple and direct introduction of the decision tree to secondary school students, and it shows graphically essential elements of a civic decision, which are discussed briefly below with reference to the exemplar lesson on the decision of Washington to attend the Constitutional Convention.[9]

1. *Confrontation with the need for choice, an occasion for decision.* An occasion for decision involves a problem or issue where the solution is not obvious. For example, George Washington, an advocate of a strong central government, was invited to attend the Constitutional Convention. This invitation was an occasion for decision, because Washington faced cross-pressures about whether or not to go. A decision to attend the Convention involved serious political risks. Furthermore, Washington felt pressured to stay home to deal with serious personal problems. However, he wanted to be part of any significant moves to strengthen the government of the United States.

2. *Identification of alternatives.* The quality of a decision depends upon identification and clarification of all reasonable alternatives. In this case, the options were very clear: should Washington go to the Convention or stay home?

3. *Assessment of consequences associated with alternatives.* Options have consequences, which may be judged as more or less desirable. For example, a decision to attend the convention could lead to neglect of personal and family problems, which could exacerbate these problems. However, if Washington stayed away from the Convention, he would neglect an opportunity to improve the government, which might not come again, and could deprive him of future opportunities to exercise national leadership.

Thus, decision making involves hypotheses about the connection of alternatives to consequences. It also involves assignment of values, or judgment of likely consequences as more or less positive or negative.

4. *Selection of an alternative in terms of goals or values.* Goals are outcomes valued by the decision maker. However, these values may be in conflict, which require the decision maker to rank them as more or less important. One of Washington's goals was to deal with pressing personal problems at home. A conflicting goal in this case was his desire to exercise leadership in strengthening the national government. He apparently valued one goal more than the other and therefore preferred one alternative, to attend the Convention (regardless of personal and familial costs).

The decision tree strategy teaches students how facts and values are intertwined in civic decision making. Knowledge of relevant facts is needed to clarify alternatives and to justify hypotheses about consequences likely to result from one choice or another. However, beliefs about good and bad, better or worse (one's values) are needed to judge consequences and to rank alternatives connected with them as more or less valuable or desirable. Thus, civic decision makers use facts and values to make informed and defensible judgments about the resolution of public issues.

The lesson on "Washington's Decision" in Appendix C might be used to introduce students to the use of decision trees in civic decison making. Another lesson in Appendix D—a decision by President Jefferson to purchase Lousiana—might be used to provide practice for students in using the decision tree to clarify and judge elements or a choice that had profound significance on constitutional development in the United States.[10] In using decision trees to analyze cases about public issues, students should be advised that they are imposing a structure on events in history to help them clarify and assess choices of policy makers. Decisions in history, subjected to social pressures and personal passions, often do not proceed systematically in terms of the essential elements of the decision tree. Thus, teachers should emphasize that a particular decision maker—Washington or Jefferson, for example—may not have acted as deliberately as students are required to do in using a decision tree in the sheltered environment of a classroom. Teachers should also point out that the model of reflective choice exemplified by the decision tree can be an effective guide to analysis and judgment of decisions in history and current events and a useful aid to choices in one's life.

Supreme Court Case Study Lessons: A Strategy for Analysis of Judicial Decisions

The United States Supreme Court has acted as "guardian of the Constitution" (advocated by Alexander Hamilton in *The Federalist*, #78) and has adapted "the supreme law of the land" to changing times (advocated by John Marshall in *McCulloch v. Maryland* when he wrote that the Constitution was "intended to endure for the ages . . . and consequently to be adapted to the various crises of human affairs"). Secondary school students must examine landmark decisions of the Supreme Court to learn how main principles of the Constitution have been both guarded and adapted in various periods of American history. Historian John Garraty feels strongly about the need to emphasize landmark cases of the Supreme Court in citizenship education. Garraty writes: "To try to understand the modern Constitution without knowledge of these judicial landmarks would be like trying to understand Christianity without reading the Bible."[11]

Textbooks mention landmark Supreme Court cases, but detailed treatments are not included. Teachers can supplement the textbooks by creating lessons or using lessons in print that guide students in analysis of Supreme Court decisions. Cases should be organized in terms of these five catagories: (1) background information, (2) the constitutional issue, (3) arguments in response to the issue, (4) the court's decision, including dissenting opinions, and (5) the significance of the decision in development of constitutional law. These categories are cues to standard learning objectives in this kind of lesson. Students are expected to:

— Know how the issue in the case arose.
— Identify and explain the main constitutional issue.
— Identify and explain arguments in response to the issue.
— Identify and explain the Court's decision about the issue.
— Identify and explain dissenting opinions.
— Explain the significance of the case in constitutional law.

Questions and learning activities should be included at the end of the case that fit the preceding objectives. Students show achievement of the objectives by responding correctlhy to these end-of-lesson items.

Appendix E includes an exemplar lesson about analysis of a landmark Supreme Court case, *Youngstown Sheet and Tube Company v. Sawyer* (1952). This lesson is titled, "The Limits of Presidential Power: Truman's Decision to Seize the Steel

Mills."[12] The case is presented in terms of the categories listed above, and there are questions at the end of the case to guide students' analysis of the background information, the constitutional issue, the arguments in response to the issue, the decision, including a dissenting opinion, and the significance of the case in development of constitutional law. By analyzing a case in terms of these categories and questions, students learn ideas and thinking skills that pertain to judicial decisions in general. In addition, they gain understanding of how the Constitution has changed, within an enduring framework of principles, through judicial review. Finally, cases like this one also develop students' knowledge of core concepts and values of American constitutional government, such as the rule of law and separation of powers with checks and balances.

Judicial Decision Making Simulation Lessons: A Discovery Learning Strategy

An alternative strategy for teaching about Supreme Court cases stresses the process of judicial decision making and learning by discovery. Students are given sets of data on a case: (1) background information, (2) the constitutional issue raised by the facts of the case, (3) capsule commentaries on precedents related to the case under consideration that were established by decisions in previous cases, (4) digests of arguments made before the court in support of the contending sides, and (5) references to parts of the Constitution that pertain to the case. Students are organized into groups of five, seven, or nine (depending on the size of the class) and challenged to use these data to make and defend a judicial decision. In effect, the students are involved in a simulation of the intellectual processes used in judicial decision making.

Use of judicial decision simulation lessons is based on the assumption that students have learned key aspects of judicial decision making, such as *stare decisis* and judicial review, through previous study of a standard secondary school government textbook chapter on the judicial branch of the federal government. They are expected to apply knowledge gained from the preceding assignments to successfully conduct the simulation lesson, which becomes a measure of what they have learned and an opportunity to extend learning about the process of judicial decision making.

The teaching strategy in this type of lesson engages students in discovery learning—it challenges students to derive their own answers from incomplete information. Learners are confronted with an intriguing problem and stimulated to solve it. Teachers guide and encourage student thinking rather than providing answers that would foreclose student inquiry. After students have thought through the problem and arrived at their own answers, the teacher assists them in evaluating their work.[13]

In line with the discovery learning strategy, the teacher does not intervene in the judicial simulation except as an arranger of the conditions of the lesson and as manager of a student discussion about their decisions in the case. After deliberating in small groups to make decisions, students reconvene as a class. Representatives of each group are asked to report the group's decision (including any dissenting opinions) to the entire class and to respond to questions and comments about them. After each group has reported and defended its decision, the teacher distributes to each student a copy of a digest of the Supreme Court's decision in this case, which includes dissenting opinions, if any. After reading this summary of the court's decision, the teacher asks students to compare their decisions with the court's decision. Students are asked to comment and raise questions for discussion about the court's decision and the justification for it. Finally, they are asked to evaluate the court's decision. What if the court decided as they did? Do they agree with the reasoning in the court's formal opinion? What if the court decided differently than they did? Do they continue to disagree with the court's opinion, or has examination of the formal opinion changed their minds? During discussion of the Supreme Court's decision, the teacher takes an active role in guiding the class and evaluating responses of students.

An example of a judicial decision simulation is included in Appendix F. The title of this lesson is, "You Be The Judge: *Camara v. The Municipal Court of the City and County of San Francisco*."[14] This case raises a Fourth Amendment issue about the right of an individual to be protected against "unreasonable searches and seizures." The lesson includes sets of data about the facts of the case, the constitutional issue, arguments on contending sides of the issue, precedents in constitutional law relevant to this case, and references to parts of the Constitution relevant to this case. The lesson challenges students, working in small groups, to use the data in the manner of a federal judge to reach a defensible decision in this case. In line with the teaching strategy described above, students exchange ideas about their decisions and then are presented with the Supreme Court's decision in the "Camara Case." The lesson is concluded with comparisons of the court's decision with the students' decisions and a culminating appraisal by students of their decisions in the judicial simulation.

This type of lesson involves students actively as learners and engages them in higher levels of thinking. It also teaches knowledge and thinking skills that

can be applied generally to consideration of constitutional issues.

Historical Inquiry Lessons: A Strategy for Interpreting Primary Sources on a Constitutional Issue

Primary sources, the raw materials of historical inquiry, can be used to develop skills of interpretation and use of evidence among secondary school students of history. In particular, lessons on the interpretation of primary sources can teach students to clarify and explain positions on constitutional issues in American history, such as (1) the need to revise or replace the Articles of Confederation, (2) the right of a state to nullify a federal law, (3) the right of a state to secede from the Federal Union, (4) the power of the President to withhold sensitive information on foreign policy from the Senate, (5) the limits to freedom of speech and press in times of national crisis, (6) the desirability of amending the Constitution in a certain way—the ERA for example—and so forth.

Primary sources on different sides of a constitutional issue in American history or current events can be presented to students who examine the sources, identify and describe the main ideas of each one, compare the main ideas to find similarities and differences, and speculate about explanations for similarities and differences in the main ideas. For example, students might study documents that reveal contrasting positions about the Articles of Confederation and the need for a new frame of government, which was the pressing constitutional issue of the 1780s. They might examine one side of the issue by reading George Washington's views on the need for a stronger general government, which were expressed in his "circular letter" to the thirteen state governments in 1783. The other side of this issue, an argument against revision of the Articles of Confederation, was expressed in a letter by Richard Henry Lee to George Mason in 1785.[15] Students can be asked to identify, compare, and explain ideas of Lee and Washington about changing the government of the United States. They might also be asked to speculate about why Lee and Washington had clashing ideas on this issue.

Lessons on interpretation of primary sources can be designed to develop skills in historical inquiry. Students search for meaning by "reading between the lines" and inferring explanations. For example, students are challenged to find main ideas and supporting information in order to describe alternative positions on an issue. Then they interpret and organize information in order to compare the alternatives. Finally, they think creatively about information in the primary sources to speculate and raise questions about explanations for the differing ideas expressed there. After generating speculations and questions, students may consult their textbooks or other secondary sources to confirm, reject, or modify their speculations and to find answers to their questions.

Sound lessons on interpretation of primary sources are introduced with brief statements about the date, authorship, and historical significance of the document. Long documents, with many difficult words, are abridged and annotated so that most secondary school students will be able to read them. Finally, students' examination of the document is guided by a series of questions prepared in advance of the lesson.

Appendix G includes an exemplar lesson on interpretation of primary sources about alternative positions on a constitutional issue. The title of the lesson is, "Two Responses To A Constitutional Crisis: Decisions of Buchanan and Lincoln About Secession."[16] The lesson is based on statements of two Presidents—Buchanan and Lincoln—about threats of secession by slave states of the South. Students are asked to read these documents: (1) President Buchanan's "Fourth Annual Message to Congress" of December 3, 1860, (2) President Lincoln's "First Inaugural Address" of March 4, 1861, and (3) "A Proclamation" by President Lincoln on April 15, 1861. These documents reveal that Lincoln and Buchanon had different ideas about powers of the presidency and the nature of the Federal Union. Questions at the end of the lesson guide students' interpretations of each primary source. Next, students move to a second series of questions that guide comparison of the clashing ideas of Lincoln and Buchanan and their different decisions about how to deal with the issue of secession. The lesson is concluded with interpretation of a speech by Jefferson Davis, first President of the Confederate States of America. Students respond to a series of questions that guide interpretation of Davis' ideas on the issue of secession and comparison of these ideas with those of President Lincoln. Teachers are expected to use this lesson in combination with textbook chapters on events leading to the Civil War. The textbook content provides a context in which to fit the documents and student inquiries about them.

Summary and Recommendations

Teachers who would improve education on the Constitution in secondary school courses on American history, government, and civics must provide learning experiences for students that extend and enrich limited textbook treatments of core concepts, values, and issues in history and contemporary society. Six types of lessons and teaching strategies are recommended as means to supplement meager textbook coverage of the Constitution:

—the springboard lesson.
—the rule-example-application strategy for teaching concepts.
—cases of civic decision making and the decision tree strategy.
—a strategy for analysis of Supreme Court cases.
—judicial decision simulations.
—interpretion of primary sources.

Exemplars of each type of lesson and teaching strategy are included in the Appendixes. We encourage teachers to use these exemplar lessons in combination with standard secondary school textbooks in American history, government, and civics. We also recommend that teachers use these lessons and teaching strategies as models to guide their own development of lessons on the Constitution.

The following statements describe distinctive characteristics of the model lessons, which might be used as guidelines for development and evaluation of lessons about constitutional government and history. These characteristics of the model lessons can be viewed as recommendations about pedagogical qualities of sound learning materials on the Constitution. Of course, this is not a definitive list of desirable qualities of learning materials. However, these qualities, among others, certainly should be prominent features of secondary school learning materials on the Constitution.

1. Lessons fit standard secondary school courses in American history, government, and civics and therefore can be used to supplement or complement widely used textbooks.

2. Lessons extend and enrich standard textbook topics, but do not duplicate them.

3. Each lesson includes a plan for teachers and materials to duplicate and distribute to students.

4. Each lesson has a clear statement of purposes and well organized content that pertains to the purposes.

5. Each lesson has learning activities that require students to demonstrate achievement of instructional objectives.

6. Lessons encourage application of knowledge to completion of various kinds of cognitive tasks, from recall and comprehension to interpretation, analysis, synthesis, and evaluation.

7. Lessons emphasize core values and concepts of American constitutional governmant.

8. Lessons emphasize issues and decisions in history and current events about the meaning and application of core values and concepts of the Constitution.

9. Lessons encourage commitment to core values and concepts of the Constitution, while showing how these values and concepts require interpretation by citizens in responses to changing circumstances.

NOTES

1. These *Lessons on the Constitution* were developed from 1983-1985 for Project '87 by John J. Patrick, Director of the Social Studies Development Center at Indiana University and Richard C. Remy, Director of the Citizenship Development Program of the Mershon Center at the Ohio State University. Funding was provided to develop the lessons by the National Endowment for the Humanities. Project '87 is a joint program of the American Historical Association and the American Political Science Association. The Director of Project '87 is Sheilah Mann, 1527 New Hampshire Avenue, N. W., Washington, DC: 20036. Lessons from this project are included in this volume by permission of Project '87.
2. John J. Patrick and Richard C. Remy, *Lessons on the Constitution: Supplements to High School Courses in American History, Government, and Civics (Washington, DC: Project '87 of the American Historical Association and the American Political Science Association, 1985), 173-180.*
3. *Ibid., 127-128.*
4. Lee Ehman, Howard Mehlinger, and John J. Patrick, *Toward Effective Instruction in Secondary Social Studies* (Boston: Houghton Mifflin Company, 1974), 156-181.
5. William Welch, *The Art of Political Thinking* (Totowa, New Jersey: Littlefield, Adams & Company, 1981), 44.
6. Patrick and Remy, *Lessons on the Constitution*, 118-126.
7. Richard C. Remy, "Making, Judging, and Influencing Political Decisions: A Focus for Citizen Education," *Social Education* 40 (October 1976): 360-365.
8. Howard Raiffa, *Decision Analysis* (Reading, Mass.: Addison-Wesley Publishing Company, 1968).
9. Patrick and Remy, *Lessons on the Constitution*, 68-73.
10. Ibid., 214-218.
11. John Garraty, editor, *Quarrels That Have Shaped The Constitution* (New York: Harper & Row, Publishers, 1962), viii.
12. Patrick and Remy, *Lessons on the Constitution*, 253-255.
13. Ehman, Mehlinger, Patrick, *Toward Effective Instruction In Secondary Social Studies*, 126-129.
14. Ibid., 256-260.
15. Ibid., 61-62.
16. Ibid., 224-231.

3. BICENTENNIAL PROGRAMS AND MATERIALS

Many reasons have been given for using the occasions of the bicentennials of the Constitution and the Bill of Rights to improve understanding of our great document of governance. Mark W. Cannon, Staff Director of the Commission on the Bicentennial of the United States, has written: "We should celebrate the Constitution not only for its role in American history, but for its significance to modern government, its pivotal place in the American psyche, and its role in the continuation of our personal freedom."[1]

Former Chief Justice Warren E. Burger, Chairman of the Commission on the Bicentennial, has stated that: "The Commission regards the approaching commemoration as a historic opportunity for all Americans to learn about and recall the achievements of our Founders and the knowledge and experience that inspired them, the nature of the government they established, its origins, its character, and its ends, and the rights and privileges of citizenship, as well as its attendant responsibilities."[2]

Throughout its literature the Commission emphasizes the educational opportunities afforded by the bicentennial, to develop and nurture among all the people a greater appreciation of our constitutional heritage.[3] At the same time, there are many organizations and people who are focusing their efforts on improving instruction in kindergarten through twelfth grade classrooms. R. Freeman Butts, the William F. Russell Professor Emeritus at Columbia University, for example, has proposed that: "the fundamental ideas and values upon which our Constitutional order is built should be the core of sustained and explicit study . . . carried on throughout the school years . . . ." Similarly, the American Bar Association, American Historical Association, American Political Science Association, and the Center for Civic Education have long been concerned about the quality of civic education in our schools. They see the celebration as an opportunity, and serious study of the Constitution as the perfect vehicle, for achieving its improvement.

In short, interest in the bicentennial has generated a plethora of programs and activities. There will be oratorical contests, debates, poster displays, exhibits, slide presentations, an essay contest, and media events. Several groups have prepared curricula designed to enhance traditional classroom instruction.

Many states and local entities are planning activities and resources as well. The same is true of private organizations. Planting projects, presentations by symphony orchestras, tele-concerts and plays, and half-time interludes at athletic events devoted to constitutional themes are only a few of the ways that the bicentennial will be celebrated.

Because the kinds of programs under development are so varied, and the audiences are so diverse, it is impossible to describe them all. In some regards, this is unfortunate, because many materials intended for one audience might be interesting to another. Papers prepared by constitutional scholars for academic seminars might, for example, be quite useful to American history and American government teachers. Pamphlets featuring the 23 Framers of the Constitution who were veterans of the Revolutionary War, currently being prepared by the Army, could be of interest to students. Nonetheless, we shall not attempt to describe materials that have been, or are being designed, for general audiences; nor shall we attempt to speculate upon where and how such materials might be integrated into classroom programs. Rather, we will present information about programs and curricula that are specifically designed for use in classrooms.

Teachers who wish to find materials that are not intended primarily for students should have no trouble in locating them. The bibliography at the end of this volume contains several general citations. State Bicentennial Commissions and State Departments of Education also have reference materials and suggestions.

Overview of Bicentennial Programs and Materials for Use in Secondary Schools

Several different resources, programs, and materials of high quality and of significant scope have been selected for inclusion here. These resources have been developed by five organizations: the American Bar Association; Project '87 of the American Historical Association and American Political Science Association; the Center for Civic Education; the Jefferson Foundation; and the National Archives.

Most of the programs that are described will be useful after the bicentennial celebrations are over. Two programs, the National Bicentennial Essay Contest and Mock Trial Competition/Educational Seminar, will be conducted as competitions only in 1987. The supporting materials, which include instructor's guides, case materials, and seminar notebooks, could certainly be used in single classroom or school settings at a future time, however.

Although price was not a criterion for selection, it is interesting to note that the programs discussed tend to be quite inexpensive. Thus, costs for implementing them would be modest. The developers also seem to have taken into account typical course organization patterns and have prepared materials that fit easily into ongoing classes. All of the materials are de-

signed to improve and enhance the use of textbooks in American history, government, and civics.

Analyzing and evaluating curriculum materials or anything else, for that matter, requires that one have in mind a set of criteria that can be consistently applied. It is reasonably easy to develop such a set if one is examining material appropriate for teaching a one-semester or a one-year course. The task becomes more problematic when the programs or materials under consideration are intended for supplementary use.

For example, it might be argued that the essay contest and mock trial competition do not provide materials that explicitly focus on development of the Constitution in American history and do not emphasize a full range of core concepts of American constitutional government. We believe, however, that the suggestions offered to students about how to organize their arguments, as well as the support materials that are provided, will lead students to focus on these topics and concepts as they go about their independent research.

Thus, although we have been more flexible in our analysis of these curricula than we would have been if analyzing more traditional materials, we have used stringent criteria in an attempt to identify the best materials and programs. In those cases where the materials seemed to be weak when one criterion or another was applied, we extended the analysis to try to determine if successful student involvement would likely achieve the result desired. We have indicated all instances when such an extension was necessary. We have also, of course, identified other weaknesses.

We do not claim to have included every exemplary program or set of learning materials developed for the bicentennial of the Constitution. Some high quality materials may be developed after preparation and publication of this volume. However, we judge the programs and materials selected for discussion in this chapter to be worthy of attention and use by social studies educators.

Following is a list of criteria used to select programs and materials. Each program and set of materials should:

(1) Have a cogent rationale that justifies the use of the program and materials in secondary schools.

(2) Have clearly stated learning objectives that reflect various kinds and levels of cognitive and affective outcomes.

(3) Have accurate content that reflects current scholarship.

(4) Emphasize core concepts and values of American constitutional government and public issues about the meaning and application of these concepts and values to particular cases in history and contemporary society.

(5) Emphasize development of the Constitution in American history and its current vitality as a symbol of American nationhood and as a practical instrument of government.

(6) Have a framework for organizing knowledge or potential for successful use with such a structure or framework.

(7) Emphasize opportunities for learning and practicing skills in analytic and critical thinking and civic decision making.

(8) Tend to be self-contained (require neither extensive preparation by teachers nor additional resources).

(9) Tend to be suitable in reading level and instructional design for the target audience of students.

(10) Have great potential for improving education on the Constitution for the bicentennial year of 1987 and for many years beyond.

The following sections of this chapter describe exemplary programs and materials, which conform to the preceding criteria.

American Bar Association Youth Bicentennial Initiative

The Youth Bicentennial Initiative, developed by the Special Committee on Youth Education for Citizenship of the American Bar Association (750 North Lake Shore Drive, Chicago, Illinois 60611), consists of several programs, competitions, and publications. Some are designed to involve students directly and others consist of resource materials and information for teachers. Five of these ABA efforts are discussed in this chapter: (1) the National Bicentennial High School Writing Competition, (2) the National Mock Trial Program and Student Seminar on the Judiciary, the Constitution, and Dispute Resolution, (3) activity handbooks for young people, (4) teaching guides for the television series, We the *People—A Bicentennial Salute to the Constitution*, and (5) the ABA Publications Program activities associated with the bicentennial of the Constitution.

National Bicentennial High School Writing Competition. The "Writing Competition" is cosponsored by the Commission on the Bicentennial of the U.S. Constitution, the American Bar Association, and *USA Today*. It was conceptualized by Chief Justice Warren E. Burger.

Students in grades nine through twelve during the 1986-87 school year, or who are fourteen through eighteen years of age and not enrolled in college, are encouraged to prepare a 750- to 1500- word essay on the topic: "The Constitution: How Does the Separation of Powers Help Make It Work?" The national winner of the competition will receive $10,000.

State, District of Columbia, and territory winners will receive $250 (third place), $500 (second place), and $1000 plus an all-expense paid trip to Washington for the winner and his or her teacher in September, 1987 (first place).

USA Today is developing teacher/student resource materials that include guidelines and helpful hints for participants, background information, and judging criteria for the writing competition presented as a poster. These are printed in a unique publication, *USA Freedom*, which is part of the *USA Today* "Classline Series." *USA Freedom* utilizes the *USA Today* newspaper format and contains, in addition to competition information, newspaper accounts of the signing of the Constitution and the ratification debate, articles about how things were in 1787, an illustrated timeline, and opinion pages. There is information about the Supreme Court, essays by Chief Justice Burger and other notables, and a test about the Constitution as well.

National Bicentennial Mock Trial Program and Student Seminar on the Judiciary, the Constitution, and Dispute Resolution. This program, cosponsored by ABA, the Close Up Foundation, the Constitutional Rights Foundation, the National Institute on Citizen Education in the Law, the National Association of Bar Executives, and the American Lawyers Auxiliary, is intended to incorporate and build upon existing high school mock trial competitions.

In May of 1987, winners of state mock trial competitions will go to Washington, where they will participate in public mock trial demonstrations and in an educational seminar. The seminar agenda includes visits to courts and governmental agencies, speeches by noted persons, and workshops on the Constitution, the judiciary, and alternative means of dispute resolution. Materials are still being prepared. They will include, however, an extensive Instructor's Guide, case materials, a seminar notebook, and other background information.

All of the cooperating groups that are sponsoring the event have been involved in selecting the resources to be included in the "competition packet." The Close Up Foundation, the Constitutional Rights Foundation, and the National Institute for Citizen Education in the Law have assumed responsibility for final preparation. We have been assured that they will be similar in design and quality to materials these organizations produce for other purposes.

Activity Handbooks for Young People. Two handbooks—designed for use by educators, lawyers, and community leaders—contain interactive strategies for complementing school studies and supplementing community programs. The first, appropriate for students in kindergarten through grade six, contains interactive lessons and activities that demonstrate that rules and law are integral to everyone's life, background information for teachers, a copy of a simplified Constitution, and resource listings and ideas for community celebrations, exhibits, forums, and school community events. The upper level book focuses more on school/community commemorations. It contains ideas for simulations, debates, and forums and an extensive listing of resources. Both activity books are published by World Book, Inc., which is contributing design and printing to the effort.

Teaching Guides for Television Series. The teaching guides are designed to promote and facilitate use of a television series that is being produced by the ABA. The series can be used as an adjunct to secondary school courses in American history, government, and civics. The guides contain an overview of the Constitution, a description of how the television program may be used to enrich classroom instruction, a synopsis of each program, topics for classroom discussion, suggestions for student research topics, and a bibliography for student and teacher background reading.

ABA Publications Program. Two ABA publications—both periodicals—are especially useful to teachers who wish to teach about the Constitution and constitutional government. The first is a bicentennial newsletter entitled *Salute to the Constitution,* which is published three times a year. Salute provides an overview of bicentennial developments across the country and contains information on exemplary youth-focused resources and programs. The May 1986 issue, printed on parchment-quality paper, had a foldout poster of the Preamble to the Constitution illustrated by Sam Fink, which would be suitable for use in the classroom. Like the activity books, *Salute* is printed by World Book, Inc., and made available free of charge to educators and others responsible for bicentennial programs.

Update on Law-Related Education is a magazine published three times each year. As it is intended for law-related education teachers, every issue contains articles on the law, coverage of legal developments, including Supreme Court previews and decisions, classroom activities and strategies, and reviews of curriculum materials.

During the 1986-87 school year, all three issues will focus on the bicentennial. The topic for the Fall 1986 issue is "Mock Trials/Alternative Dispute Resolution/Separation of Powers," all areas of concern that are being featured in the two national competitions. Winter of 1986 features the concepts of power, property, liberty, equality, and justice. The Spring issue of 1987 emphasizes "vital constitutional issues."

In addition to the forthcoming *Updates*, the ABA has "bicentennial packets" consisting of selected back issues that have constitutional themes. A packet might contain, for example, "Foundations of Freedom" (Winter 86), "The Revolution in Search and Seizure" (Winter 85), "The Constitution in Crisis" (Winter 84), "Privacy vs. Power" (Spring 82), "Women and the Law" (Fall 81), "What is Justice?" (Winter 81), "Speech: The 1st Freedom" (Spring 80), "Focus on Search and Seizure" (Spring 78), and "Freedom of Press on Trial" (Winter 78).

Although we have not been able to examine all of the materials cited here, the quality of the persons and organizations involved lead us to believe that the forthcoming materials will be exemplary. The materials that are available rate highly according to our criteria. Even though the two competitions are intended to run only one year, the resources that are being prepared for teachers will have a much longer life.

Center for Civic Education

The Center for Civic Education (5115 Douglas Fir Road, Suite I; Calabasas, California 91302) is organizing National Bicentennial Competitions on the Constitution and Bill of Rights, which will be conducted from 1987 through 1991. Each year the program will involve classes at three grade levels—elementary, junior high school, and senior high school—in one or more school systems in each of the nation's congressional districts. Classes compete in schools, congressional districts, states, and finally in national competitions to be held in Washington, DC.

Classes are expected to prepare for the competitions by using specially prepared study units on the Constitution and Bill of Rights that can complement and be integrated into the required curricula at the appropriate levels. The general goals of the units are to foster civic competence and civic responsibility among students. Content of the instructional and testing programs is organized to focus on (1) the historical antecedents to the Constitution and Bill of Rights, (2) the founding period, (3) the Constitution in the 19th century, and (4) the Constitution in the 20th century.

After completing their study, classes compete as teams in demonstrating their knowledge and understanding of the Constitution. Each class is to complete a multiple-choice test and participate in a constitutional hearing on a fundamental constitutional issue. The combined score of classes on this two-part test determines which will go on to the next round of competition.

Since participating classes compete against each other as teams, the average score of a class on the multiple-choice test is used rather than the scores of individual participants in a class. Thus, students in each class are encouraged to study and work together so all can do their best on the test in order to get as high a class average as possible.

The constitutional hearing, the second part of the test, is conducted before a panel of experts on the Constitution, drawn from the community. Each class selects a team of five students to represent it at these events. Once the team has been selected and the issue for the position of the team assigned, the entire class is responsible for helping the team prepare for its presentation.

The score a team receives on its presentation is added to the score of the whole class on the multiple-choice test to determine winning classes. In successive rounds, entire classes continue to participate as teams in the competition by taking multiple-choice tests of increasing difficulty and by continuing to coach their teams in preparation for the constitutional hearings.

The study units for senior high school students were field tested in 1986. Development of materials for elementary and junior high school students is based on the same conceptual framework. This conceptual structure was developed with the assistance of constitutional scholars and learning specialists.

Like several of the programs discussed in this section, the Center for Civic Education identified deficiencies in traditional textbooks and has attempted to prepare materials to correct the deficiencies. For example, the analysis showed the need to emphasize the philosophical underpinnings of the Constitution and major concepts such as constitutionalism, republicanism, representative democracy, social contract, and natural rights.

The materials contain a clear rationale, stated objectives, and an array of teaching strategies. One unique feature requires the use of cooperative group work and peer teaching, because whole classes are required to coach and do research for the five students who will represent the class in the constitutional hearings. A second feature relates to involvement of members of Congress and others active in politics in judging the hearings. Students who either participate in the competition or simply study the instructional units should have an enhanced understanding of constitutionalism.

Jefferson Foundation

The Jefferson Foundation (1529 18th Street, N.W.; Washington, DC 20036) has organized programs to involve citizens in the study of the United States Constitution. A major part of this initiative is the Jefferson Meeting on the Constitution, which is "what a constitutional convention might look like if delegates were to gather to discuss the adequacy of the Con-

stitution and its provisions for contemporary American society." The purpose of the Jefferson Meeting is to educate rather than pursue political change, however.

The Foundation suggests two possible settings for the meetings—one involving the community and one the classroom. Although the format for the community and classroom meetings differ, both are dependent upon the same topics and the same carefully crafted discussion guides. We will discuss only the classroom model.

The teacher's guide gives ample information for setting up and implementing a Jefferson Meeting. Student role descriptions, rules for a plenary, follow-up activities, an opinion poll, and evaluation questions are included. The guide suggests that meetings are probably most effective if conducted after students have developed an understanding of the Constitution, the structure of American government, and the events and debates surrounding the Constitutional Convention.

The meeting itself involves setting the agenda, meeting in issue committees, holding a plenary session, and conducting a follow-up session—activities which take approximately ten class sessions to accomplish. It is during the issue meetings where students are introduced to a particular topic, make a decision whether to do research on the pro- or conside, and prepare the arguments which will be presented in the plenary.

The plenary is conducted somewhat like a debate and features timed pro- and con-arguments which are followed by opportunities for questions and comments from the delegates. Follow-up sessions include reports that synthesize and summarize the plenary debate.

The ten-day sequence anticipates use of all of the discussion guides which can either be purchased for student use or reproduced with attribution. The issues which are dealt with are "To Make and to Alter Their Constitutions of Government" (Implications of Using Article V of the Constitution to Call a National Constitutional Convention), "The Plain Simple Business of Election" (Electoral College Reform), "So Great a Power to Any Single Person" (Proposals to Limit the President to a Single Six-Year Term), "The Road of Republican Government" (Proposals to Change Congressional Terms), "To Control Abuses of Government" (Proposals to Initiate Item and Legislative Veto Powers), and "During Good Behavior" (Proposals to Establish Terms of Office for the Federal Judiciary). It would be possible to shorten the time required by limiting the number of issues considered.

The Guide also suggests models for expanding the basic program by adding more issues and for involving several schools, a whole school, or the community in full-day meetings. A simplified adaptation is also suggested for less advanced students.

The Jefferson Meeting represents an interesting way to involve students in examining how well the Constitution addresses the needs of modern society. In order to be successful, students have to do research, take and defend a position, and listen to alternative positions. They should learn a great deal about how the Constitution works and about pervasive social and political concerns.

National Archives

The National Archives and Records Administration (Washington, DC 20408), the repository for official documents of our national government, has been involved since 1970 in programs that introduce these resources to secondary school students. A part of this effort has included development of a series of documentary learning packages. The seventh in the series, which is entitled *The Constitution: Evolution of a Government* (available from SIRS, Inc., Boca Raton, Florida 33427) has just been published. It contains 34 reproductions of documents and an extensive teacher's guide with suggested exercises.

The entire teaching unit is comprised of three sections, each based upon documents. The first section, "The Making of the Constitution" (ten exercises), contains documents such as the Articles of Association, the Declaration of Independence, the Northwest Ordinance, George Washington's draft copy of the Constitution, and a working draft of the Bill of Rights. The second section, "The Beginnings of Government" (six exercises), includes minutes of the Senate describing President Washington's oath of office ceremony, letters from such persons as Thomas Jefferson and John Jay, Franklin's petition to abolish slavery, and a U.S. loan certificate. The last section, "The Evolution of a Constitutional Issue" (four exercises), contains documents from the period 1789 to 1962 that have to do with the establishment and free exercise of religion. In addition to the twenty exercises that make up the core of the program, there are two introductory lessons designed to give students the skills necessary for analyzing documents and to make them aware of the process historians use when they interpret a particular event or era.

The various exercises have also been designed for students of different ability levels. In some instances, two procedures have been provided, each tailored to meet different student needs.

In addition to the general goals for the program, specific objectives are provided for individual lessons. Each lesson also contains background information for the teacher and step-by-step procedures for achieving lesson objectives. Many of the lessons

require that students use either their American history or American government textbooks to locate information that links to the documents that are to be analyzed. Thus, it is quite apparent that the intent of the program is to supplement and enrich ongoing courses.

This Constitution: Evolution of a Government represents a highly versatile and unique educational program. It is largely skill-based and requires students to do something—infer, analyze, and interpret.

Project '87 of the American Historical Association and the American Political Science Association

Project '87 is headquartered at 1527 New Hampshire Avenue, N.W., Washington, DC 20036. It was established in 1976 by the American Historical Association and the American Political Science Association. Initially, Project '87 emphasized scholarly research on the Constitution and constitutional processes. By 1980, this focus was expanded to include the development of programs aimed at improving instruction about the Constitution in schools and colleges. Four programs by Project '87 are described here: *Lessons on the Constitution*, Project '87 Poster Set, a video program (co-sponsored by the Agency for Instructional Technology) and *This Constitution: A Bicentennial Chronicle*.

Lessons on the Constitution. These lessons are designed to support existing courses in civics, American history, and American government. The authors of the materials engaged in a lengthy development process involving scholars, specialists in instructional design, and teachers. This process included planning, lesson design and writing, field testing, and evaluation phases. The resulting materials consist of 60 lessons with accompanying teacher materials bound together in a single volume. It is expected that the lessons will be duplicated for use by students.

The materials are organized into five chapters, four of which consist of lessons and one which contains primary source documents. The four chapters of lessons are entitled: "Origins and Purposes of the Constitution," "Principles of Government in the Constitution," "Amending and Interpreting the Constitution," and "Landmark Cases of the Supreme Court." The lessons making up the chapters were written to expand and enrich what is typically found in basal textbooks and to give students a better understanding of the Constitution and of constitutionalism. Thus, it is expected that teachers will use the lessons individually and in groups to improve instruction about the Constitution in civics, American government, and American history courses.

All of the lessons provide an overview, contain a clear statement of objectives, point out connections to textbooks, and present procedures for teaching. They encourage active learning by requiring frequent opportunities to practice new skills and apply new knowledge. Teaching/learning strategies are varied to promote student interest and motivation.

Video Programs on the Constitution. Project '87 is cooperating with the Agency for Instructional Technology (AIT) to develop six video programs on the Constitution for use in secondary school courses in American history, government, and civics. This project is based on a long and careful process of development.

In 1980-81, AIT and Project '87 conducted research to identify multimedia materials for teaching about the Constitution and to assess their quality. Because there was a clear need to strengthen such materials, a planning meeting which included historians, political scientists, secondary school specialists on curriculum development, and instructional media and design specialists was convened in 1984. This group settled on three general program objectives. The video programs should: (1) "show that the original structural aspects of the Constitution have important interrelations and that, when viewed as a whole, the Constitution balances the giving and withholding of powers and rights to the government;" (2) "show that the Constitution is a document that can be changed and has been changed as a result of the need to resolve conflict, and because of changing political, economic, and social situations;" and (3) "present recurring constitutional themes and issues that will stimulate young people to think more critically about the Constitution and improve their decision-making skills." Based upon these objectives, content themes and expected student outcomes were formulated for six video programs. Preliminary titles of the six programs are: (1) *Constitutional Government: The Rule of Law in a Free Society*, (2) *Checks and Balances in the Federal Government*, (3) *Federalism: Balance of Power Between National and State Governments*, (4) *Freedom of Speech*, (5) *Equal Protection of the Laws*, and (6) *The Constitution and the Economy*.

It has been impossible to assess these materials, because they are not yet completed. The overall rationale, the statement of objectives, and the teaching strategies that have been proposed seem very good. The credentials of the planning and conceptualizing teams are impressive as well. AIT has an excellent reputation in the field of instructional technology. On these grounds alone, one would expect the video programs to be exemplary and a resource worthy of examination.

"The Blessings of Liberty": A Poster Panel Exhibit. "The Blessings of Liberty" consists of twelve full-color posters, each 22" x 36". They are accompanied by a *User's Guide* that provides an essay about the events and leaders that are depicted; lessons for using the posters with students in grades four through six, seven through nine, and ten through twelve; a bibliography for adult reading/discussion groups; and suggestions for mounting the exhibit and coordinating it with community bicentennial programs.

The intent of the exhibit is to illustrate in graphic form the larger questions about the Constitution: What government did the Constitution replace? What were the intractable problems that convinced the Founders to write a new Constitution? When was the Constitution written? What were the arguments for and against its adoption? How was the document ratified? How did the plans for our capital city reflect the design of the Constitution? What is included in the Bill of Rights and how was it passed? What part did the Supreme Court play in the early history of the Constitution? How were those people originally left out of the body politic incorporated since 1787? Answers to these questions are provided as exploratory texts written by noted constitutional scholars.

Graphic art was selected as a useful creative medium because it can inform, illustrate, and inspire. The intent of the series is to "elicit interest, compassion, identification . . . a thirst for greater knowledge." This series does just that. It could not be used to build a comprehensive understanding of the Constitution. Yet, when used in conjunction with its own carefully designed lessons and other materials, the series represents an exciting way to introduce and illustrate important concepts.

This Constitution: A Bicentennial Chronicle. *This Constitution* is not a curriculum. Nor is its focus primarily upon classroom materials. It is, however, a particularly useful resource for teachers, because it can link them to others in their area who are preparing materials and programs. It is published quarterly by Project '87 and contains articles and essays by well-known theorists on various constitutional themes; reprints of original documents; listings of educational films, publications, organizations and institutions that are participating in bicentennial activities; information about state and local programs; and selected lessons from a variety of sources. These lessons are representative of the best that are available and they can be reproduced for use by students free of charge, if properly attributed.

Because *This Constitution* is not a curriculum, many of the criteria which have been used to evaluate other programs are not applicable. Individual lessons that are included in the eleven issues that have been published certainly are exemplary in terms of all of the criteria.

Summary and Recommendations

The celebration of the bicentennial of the Constitution has provided the occasion for literally hundreds of organizations and individuals to prepare materials, devise strategies, and recommend activities for teaching about our great document of governance. Many of these should be useful to teachers. We have cited twelve programs that appear to be particularly promising, because they can be so easily integrated into ongoing courses of study. There are others that have been cited in the Select Bibliography that should be helpful as well.

It is important, we believe, that teachers consider implementing the materials that seem to best meet their instructional objectives and the needs of their students at this particular time. The bicentennial of the oldest written constitution in the world is an event worthy of all our attention.

In terms of larger educational goals, however, it is not enough to think in terms of a "one shot" celebration. Understanding the Constitution (its historical antecedents, philosophical underpinnings, and structural dimensions), being able to apply its principles, and appreciating its importance are core components of citizenship education. It behooves all of us to think of the bicentennial as the opportunity to start the process of upgrading the quality of instruction about the Constitution and consequently, reinvigorating citizenship education in the years to come.

NOTES

1. Mark W. Cannon, "Why Celebrate the Constitution?" National Forum LXV (Fall 1984): 3.
2. Warren E. Burger, "From the Chairman," We The People, Newsletter of the Commission on the Bicentennial of the United States Constitution 1 (November 1985): 1.
3. The Commission on the Bicentennial of the United States Constitution has been established by the United States Congress to stimulate and coordinate programs and events "appropriate for celebrating the Constitution." The oath of office was administered to the first commissioners at a White House ceremony by Vice President George Bush on July 30, 1985.
4. Cannon, "Why Celebrate the Constitution?", 4.

APPENDIXES

The Appendixes (A-G) include seven model lessons, which exemplify teaching strategies discussed in Chapter 2 of this volume. These model lessons are seven of sixty included in *Lessons On The Constitution: Supplements To High School Courses In American History, Government, And Civics* by John J. Patrick and Richard C. Remy. This book was published in 1985 by Project '87 of the American Historical Association and the American Political Science Association of Washington, D.C. Lessons in these Appendixes (A-G) are listed below.

A. WHAT DOES THE CONSTITUTION SAY ABOUT FEDERALISM?
B. THE PRINCIPLE OF FEDERALISM
C. WASHINGTON'S DECISION TO ATTEND THE CONSTITUTIONAL CONVENTION
D. STRETCHING THE CONSTITUTION: JEFFERSON'S DECISION TO PURCHASE LOUISIANA
E. THE LIMITS OF PRESIDENTIAL POWER: TRUMAN'S DECISION TO SEIZE THE STEEL MILLS
F. YOU BE THE JUDGE: THE CASE OF CAMARA V. MUNICIPAL COURT OF THE CITY AND COUNTY OF SAN FRANCISCO
G. TWO RESPONSES TO A CONSTITUTIONAL CRISIS: DECISIONS OF BUCHANAN AND LINCOLN ABOUT SECESSION

These seven lessons are reprinted here by permission of Project '87 of the American Historical Association and the American Political Science Association. The Director of Project '87 is Sheilah Mann, 1527 New Hampshire Avenue, N. W., Washington, D.C. 20036.

APPENDIX A

What Does The Constitution Say About Federalism?
An Exemplar of The Springboard Lesson

III-2. WHAT DOES THE CONSTITUTION SAY ABOUT FEDERALISM?

LESSON PLAN AND NOTES FOR TEACHERS

Preview of Main Points

The purpose of this lesson is to increase students' knowledge of a main constitutional principle—federalism. In addition, students should become more familiar with certain parts of the Constitution that pertain to federalism.

Connection to Textbooks

This lesson can be used to reinforce American government textbook treatments of the constitutional principle of federalism. The lesson can be used to supplement American history textbook discussions of main principles of the Constitution, which usually follow treatment of the Constitutional Convention.

Objectives

Students are expected to:

1. Demonstrate knowledge of the constitutional principle of federalism by responding correctly with a "YES" or "NO" answer to each item in this lesson.
2. Support their response to each item by listing the correct reference in the U.S. Constitution (Article and Section).
3. Increase knowledge of which parts of the Constitution pertain to the principle of federalism.
4. Practice skills in locating and comprehending information in the U.S. Constitution.
5. Increase awareness of how the Constitution applies to the concerns of citizens.

Suggestions for Teaching the Lesson

Opening the Lesson

- Inform students of the main points of the lesson.
- Make sure that students understand the directions for this lesson.

Developing the Lesson

- Have students work individually or in small groups to complete the items in the exercise.
- You may wish to have different students report their answers to the items in this lesson. An alternative is to distribute copies of the answers, when appropriate, so that students can check their responses against the correct answers.

Concluding the Lesson

- Ask students to explain what each item in the exercise has to do with the principles of federalism. By doing this, students can demonstrate comprehension of the idea of federalism.
- You may wish to have students examine and discuss in more detail issues and questions associated with the items in this exercise.

ANSWER SHEET FOR LESSON III-2

1. NO, Article I, Section 10, Clause 1.
2. YES, Article I, Section 8, Clause 3.
3. NO, Article I, Section 8, Clause 3; Article IV, Section 2, Clause 1 might also apply.
4. NO, Article VI, Section 2; also Commerce Clause—Article I, Section 8, Clause 3.
5. NO, Article I, Section 8, Clause 7.
6. NO, Article I, Section 10, Clause 2.
7. NO, Article IV, Section 3, Clause 1.
8. YES, Article IV, Section 2, Clause 3.
9. NO, Article IV, Section 1.
10. NO, Amendment X. (NOTE: The authority to operate public schools is a power not given to the national government nor prohibited the states by the Constitution. Thus state and local governments have power under the Constitution to operate public schools.)

III-2. WHAT DOES THE CONSTITUTION SAY ABOUT FEDERALISM

Read each of the following statements. Decide whether or not each statement describes a situation in which the officials or institutions involved comply with the U.S. Constitution. **If so,** answer YES. **If not,** answer NO. Circle the correct answer under each statement.

Identify the number of the Article and Section or the Amendment of the Constitution that supports your answer. Write this information on the appropriate line below each item.

CLUE: Answers to these items can be found in Articles I, IV, and VI or in Amendment X.

1. Michigan, hard hit by a recession, has decided to issue coins made from old cars in order to stimulate the economy.

   YES NO

   _____

2. Congress passes a law imposing new regulations upon airlines engaged in interstate commerce (doing business in several states and across state lines).

   YES NO

   _____

3. Colorado's Scenic Drive Highway has become overcrowded. The state legislature passes a law forbidding out-of-state drivers from using the highway.

   YES NO

   _____

4. The U.S. Supreme Court's upholding of Congress' power to regulate the strip mining of coal upset the governor of North Dakota very much. The governor has announced that he will not allow the enforcement of the law in his state.

   YES NO

   _____

5. Displeased with the U.S. Postal Service, the state legislature of Nevada has passed a law creating the Nevada Postal Service.

   YES NO

   _____

6. The state of Washington has placed a tax on goods imported and exported through its seaports.

   YES NO

   _____

7. The neighboring state of Illinois has annexed Lake County, Indiana.

   YES NO

   _____

8. The Governor of Montana requests that Kentucky return John Doe to Montana. Doe, convicted of murder in Montana, had fled to Kentucky where local authorities captured him.

   YES NO

   _____

9. John Jones has been legally adopted in the state of Arkansas. After the Jones family moves to Georgia, the Georgia State Welfare Agency takes John from his adoptive parents. The Agency claims it does not recognize Arkansas adoption laws.

   YES NO

   _____

10. The federal government passes a law to establish a single national system of public high schools.

    YES NO

    _____

APPENDIX B

The Principle of Federalism,
An Exemplar of A Concept Learning Lesson

III-1. THE PRINCIPLE OF FEDERALISM

LESSON PLAN AND NOTES FOR TEACHERS

Preview of Main Points

This lesson introduces students to three basic ideas about the principle of federalism. These are that federalism involves (1) two levels of government at work, (2) a constitutional division of powers, and (3) changing relationships between national and state powers. The lesson requires students to apply what they learn by working with examples of these key ideas.

Connection to Textbooks

Federalism is a complex idea. This lesson contains information along with practice exercises that reinforce textbook discussions of federalism. It further develops ideas about federalism found in textbooks. It can be used to introduce chapters or discussions about federalism or for practice and reinforcement after students have studied the topic.

Objectives

Students are expected to:

1. Know the basic definition and distinguishing characteristics of federalism.
2. Identify examples and non-examples of unitary and confederation government.
3. Explain the contributions to federalism of unitary and confederation approaches to government.
4. Identify examples according to the constitutional division of powers between the national government and state governments.
5. Understand that the constitutional division of national and state powers is not always clear and changes over time.

Suggestions for Teaching the Lesson

This is a concept-learning lesson. It is designed to present the concept of federalism to students through the use of definitions and examples. Students are asked to apply definitions to the organization and interpretation of information. Students complete a set of activities or "application exercises" at the end of each main section of the lesson and again at the end of the lesson.

Opening the Lesson

- Tell students the main point and purposes of the lesson, so that they know it focuses on a major principle of the U.S. Constitution—federalism.
- Discuss the statement by James Madison on the first page of the lesson. Ask them what this statement has to do with the principle of federalism.

Developing the Lesson

- Have students work independently through each of the main sections of the lesson. Each section is about a major feature of federalism.
- Require students to complete the application exercise that follows each of the sections of the lesson.
- You could discuss student responses to each of the application exercises before having them move on to the next section of the lesson. Or you may wish to have them complete all the exercises before discussing them together.

Concluding the Lesson

- Have students complete the application exercise at the end of the lesson—"Reviewing and Applying Knowledge About Federalism."
- Conduct a class discussion of this application exercise. Keep in mind that alternative answers to some of the items may be acceptable. Students should be able to present a defensible reason for choosing their answer.

III-1. THE PRINCIPLE OF FEDERALISM

In 1787 the framers of the Constitution created an unusual governmental structure. They designed a federal system of government that provides for the sharing of powers by the states and the national government.

The founders created a federal system to overcome a tough political obstacle. They needed to convince fiercely independent states to join together to create a strong central government.

Writing to George Washington before the Constitutional Convention, James Madison considered the dilemma. He said establishing "one simple republic" that would do away with the states would be "unattainable." Instead, Madison wrote, "I have sought for a middle ground which may at once support a due supremacy of national authority, and not exclude [the states]." Federalism was the answer.

Federalism refers to the division of governmental powers between the national and state governments. Each may directly govern through its own officials and laws. Both state and national governments derive their legitimacy from our Constitution, which endows each with supreme power over certain areas of government. Both state and federal governments must agree to changes in the Constitution.

Federalism is a central principle of the American Constitution. In this lesson you will study the key ideas of federalism:

- two levels of government at work;
- a constitutional division of powers;
- an often unclear and changing line between national and state powers.

Two Independent Levels of Government

The key idea of our federal system is two levels of government, national and state, with separate powers to act and govern independently. Thus, under federalism, the state of Oregon as well as the national government in Washington, has formal authority over its residents. Oregon residents must obey both Oregon laws and national laws. They must pay Oregon taxes and federal taxes.

This novel sytem of government differed from the two forms already known to the founders in 1787—the confederation and the unitary government. Each of these located government powers in a different place.

Unitary Government. The term unitary government describes a system whereby all formal political power rests with a central authority. The central government directly governs the people. Today France and Japan have unitary governments.

Unitary government may have geographical subdivisions. These smaller units mostly serve as administrative extensions of the central government. The central government may create or abolish them at will. France has regional units called "departments," but the central government in Paris sets up and runs each department.

EXERCISES FOR LESSON III-1

Apply Your Knowledge

Which government described below is a unitary government? Why?

1. Great Britain, consisting of England, Scotland, Wales, and Northern Ireland, is controlled by a national government in London, the capital. Great Britain also has local governments, similar to those in American counties and cities. These can be changed at will by the government in London. Is this a unitary system? _____ Explain.

   _____

   _____

   _____

2. Mexico has a national government located in Mexico City, the capital. A President and a Congress direct the national government. Mexico also has thirty-one states with their own separate Constitutions. Each state has independent powers to collect taxes in its territory. Is this a unitary government? _____ Explain.

   _____

   _____

   _____

A Confederation. The other form of government known to the founders in 1787 was confederation. A confederation is an alliance of independent states. In a confederation the states create national government that has very limited powers. The states retain most of the power, granting the national government only limited independence. The national government does not directly govern the people. The national government can do only what the states permit.

The founders understood this approach very well. The Articles of Confederation, in operation from 1781 to 1788, established the confederation form of government. Under the Articles, for example, only the states had the power to tax people directly, leaving the national government dependent on state grants for revenue.

EXERCISES FOR LESSON III-1

Apply Your Knowledge

1. In a confederation government, the central government holds all power. TRUE FALSE

2. In 1861 eleven slave states seceded from the Union and created their own government and constitution. The preamble to their constitution declared: "We, the people of the Confederate states, each State acting in its sovereign and independent character...do ordain and establish this Constitution."

   a. According to the preamble who "acted" to create the Confederate constitution?

   _____

   _____

   b. What evidence in the preamble suggests that the constitution was creating a confederate form of government?

   _____

   _____

Characteristics of Federalism. The founders borrowed ideas from both the confederation and unitary forms of government in creating a federation or "federal republic," as they called it. It was truly a new idea. No one at the Philadelphia convention could predict how a federal system would operate. At that time, few delegates even used the word "federalism" to describe the plan they were designing. The founders realized, however, that they had to divide the powers of government between a national government and the states in a new way.

Since 1787 many nations have adopted federal systems of government. Canada, Australia, India, Brazil, Nigeria, Germany, and Mexico have federal forms of government. These systems have adopted varying arrangements outlining the relationships between the states, or lesser governments, and the central governments.

However, all true federal systems share four characteristics. These characteristics reflect ideas drawn from both the unitary and confederation forms of government.

First, all federal systems give both the national government and states some powers to govern the people directly.

Second, federal systems recognize that the states have certain rights and powers beyond the control of the national government.

Third, federal systems guarantee the legal equality and existence of each state. Each state has a right to equal treatment regardless of its size or population. But a state may not always have equal political power if differences in population affect proportional representation.

Fourth, federal systems rely on judicial bodies to interpret the meaning of their constitution and to settle disputes arising between the two levels of government (national and state) and between states.

EXERCISES FOR LESSON III-1

Apply Your Knowledge

Several features of our federal system are presented below. Which characteristic of federalism described above, the "first," "second," "third," or "fourth," does each example illustrate? Be prepared to explain your answers.

1. _____ Montana, with a population of 786,690, has the same number of U.S. Senators as California, with a population of 23,668,562.

2. _____ In 1910, the Supreme Court ruled that the national government could not prevent the state of Oklahoma from moving its capital from one city to another.

3. _____ Article III of the Constitution says, that the judicial power of the Supreme Court "shall extend...to Controversies between two or more states."

4. _____ In 1981 Congress passed a law requiring every American male to register for the draft upon reaching the age of 18.

5. _____ Article IV of the Constitution prohibits Congress from creating a new state from territory belonging to an existing state without the consent of the contributing state.

Division of Powers by the Constitution

Both the national government and the states have powers under our federal system. Our Constitution divides these powers between the levels of government.

Article I, for instance, reserves the power to coin money and to make treaties with other nations for the national government. State governments have traditionally administered such areas as public health, fire and police protection, local elections, and marriages and divorces.

What prevents states from ignoring or contradicting the Constitution when they pass laws? Article VI of the Constitution says that the Constitution and "laws of the United States. . . shall be the Supreme Law of the Land." This statement, known as the supremacy clause, makes federalism work by preventing chaos.

The supremacy clause means that while the powers of the national government are limited, within its field the national government is supreme. Thus, the states can neither ignore national laws nor use their powers to oppose national policies or the Constitution itself. In fact, each state official must swear an oath to uphold the U.S. Constitution.

Table 1 gives examples of how the Constitution distributes powers between the national government and the states. The table shows that the Constitution grants some powers exclusively to the national government, some powers exclusively to the state governments, and some powers to both. Also notice that the Constitution withholds some powers from the national government, denies the state governments others, and prevents both from exercising still more powers.

EXERCISES FOR LESSON III-1

Apply Your Knowledge

Use table I, page 122, to answer these questions.

1. Which government, federal or state, is:
   a. granted power to establish post offices?

   _____

   b. denied power to enter into treaties?

   _____

   c. reserved power to take measures for public health and safety? _____

   d. denied power to grant title of nobility?

   _____

   e. granted power to borrow money? _____

   f. denied power to discriminate against citizens because of their race? _____

2. Which government, federal or state, has the power to provide for an army and a navy?

   _____

   Find this power in the Constitution (Clue: look under Article I). What Section contains it?

   _____

   Exactly what does the Constitution say? _____

   _____

   Are there any limitations on this power (Clue: look under the Bill of Rights). What amendments are relevant? _____

   _____

   Exactly what do these amendments say? _____

   _____

   _____

   Does the Constitution prevent state or federal government from prohibiting the organization of a citizen's army? _____

   What is a citizens' army called? _____

   Which type of government does the Constitution entitle a state to organize? _____ Where does this appear in the Constitution? _____

3. The Constitution denies which type of government, federal or state, the power to impair obligations of contracts? _____

   Find this restriction in the Constitution (Clue: look under Article I). What Section contains it?

   _____

   Exactly what does the Constitution say about contracts?

   _____

   _____

   _____

   _____

4. Table 1 says state governments can exert powers the Constitution neither gives to the national government nor prohibits the states from using. Which amendment confirms this fact? _____

A Changing Division of Powers

Table 1 is useful, but it should not mislead you. In some cases the division of powers is as clear as the table. For example, no one disputes that only the national government has the power to coin money. However, determining which government has jurisdiction in other cases is not always so easy.

TABLE 1
Examples of How the Constitution Divides Powers

	TO NATIONAL GOVERNMENT	TO STATE GOVERNMENTS	TO BOTH LEVELS OF GOVERNMENT
POWERS GRANTED	To coin money To conduct foreign relations To regulate commerce with foreign nations & among states To provide an army and a navy To declare war To establish courts inferior to the Supreme Court To establish post offices To make laws necessary and proper to carry out the foregoing powers	To establish local governments To regulate commerce within a state To conduct elections To ratify amendments to the federal Constitution To take measures for public health, safety, & morals To exert powers the Constitution does not delegate to the national government or prohibit the states from using	To tax To borrow money To establish courts To make and enforce laws To charter banks and corporations To spend money for the general welfare To take private property for public purposes, with just compensation
POWERS DENIED	To tax articles exported from one state to another To violate the Bill of Rights To change state boundaries	To tax imports or exports To coin money To enter into treaties To impair obligations of contracts To abridge the privileges or immunities of citizens	To grant titles of nobility To permit slavery To deny citizens the right to vote because of race, color, or previous servitude To deny citizens the right to vote because of sex

Table adapted from Robert L. Lineberry, *Government in America* (Boston: Little, Brown and Company, 1981), p. 93.

Reviewing and Applying Knowledge About Federalism

You have learned that federalism involves two types of government (national and state) directly governing citizens. You also learned how a federal system differs from unitary and confederation governments.

1. List the four characteristics found in all true federal systems.

   a. _____

   b. _____

   c. _____

   d. _____

2. Study diagram 1. Use the information to answer these questions.

   a. What does diagram 1 describe? _____

   _____

   Which of the statements about diagram 1 are True or False? Be prepared to explain your answers.

   b. A unitary government directly governs the people.

   TRUE FALSE

   c. In a federal system the national government has no power over the states.

   TRUE FALSE

   d. In a confederation the central government can directly govern the people.

   TRUE FALSE

   e. In a federal system only the states exercise power over the people.

   TRUE FALSE

3. Table 1 shows the powers granted and denied the national and state governments. Given this division of powers indicate whether the hypothetical actions listed below are constitutional or not.

   a. The United States declares war on a foregin nation.

   YES NO

   b. The State of Minnesota sets up separate schools for Native Americans in the state.

   YES NO

   c. Congress spends $5 billion for new army rifles and tanks.

   YES NO

   d. The State of Delaware levies an import tax on all foreign cars coming into the state.

   YES NO

   e. The California Board of Elections sets new hours and regulations for voting in the state.

   YES NO

   f. Congress passes a law moving the boundary between Idaho and Montana.

   YES NO

4. Writing in *The Federalist*, James Madison said that both the state and the national governments "are in fact but different agents and trustees of the people, constituted with different powers."

   a. What did Madison say about the source of state and national government powers?

   _____

   _____

   _____

   _____

   b. Is the Madison quote an example of the idea of federalism? _____ Explain.

   _____

   _____

   _____

   _____

5. You have learned that the Constitution divides powers between the national government and the states in our federal system.

   a. What is the "Supremacy Clause"? _____

   _____

   _____

   _____

   _____

   b. Where is this clause found in the Constitution?

   _____

   _____

   _____

6. You have learned that the limits of national and state government jurisdictions are sometimes unclear and disputed. The case study below is an

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   b. Is the Madison quote an example of the idea of federalism? _____ Explain.

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   _____

   b. Where is this clause found in the Constitution?

   _____

   _____

   _____

6. You have learned that the limits of national and state government jurisdictions are sometimes unclear and disputed. The case study below is an

example of the kind of issue that frequently arises in a federal system. Read the case study and answer the questions following it.

The Concorde Dispute

In 1976, France and Britain wanted to land their new supersonic transport plane, the Concorde, at American airports. Environmental groups in America opposed the idea, objecting to the planes as too noisy.

President Ford's Secretary of Transportation decided the Concorde could land at New York's Kennedy Airport. However, the national government did not own Kennedy Airport. State government officials in New York and New Jersey ran the airport. They refused to let the Concorde land at their airport.

The national government took the state officials to court. Federal courts eventually decided in favor of the national government. The courts ruled that the national government had the authority to let the planes land in New York.

a. What power did both national and state officials claim to have? _____

_____

_____

_____

b. Who settled the dispute over powers? _____

_____

_____

c. Which government won the dispute? _____

_____

_____

d. Is this case an example of federalism in practice?

_____

Explain. _____

_____

_____

_____

_____

_____

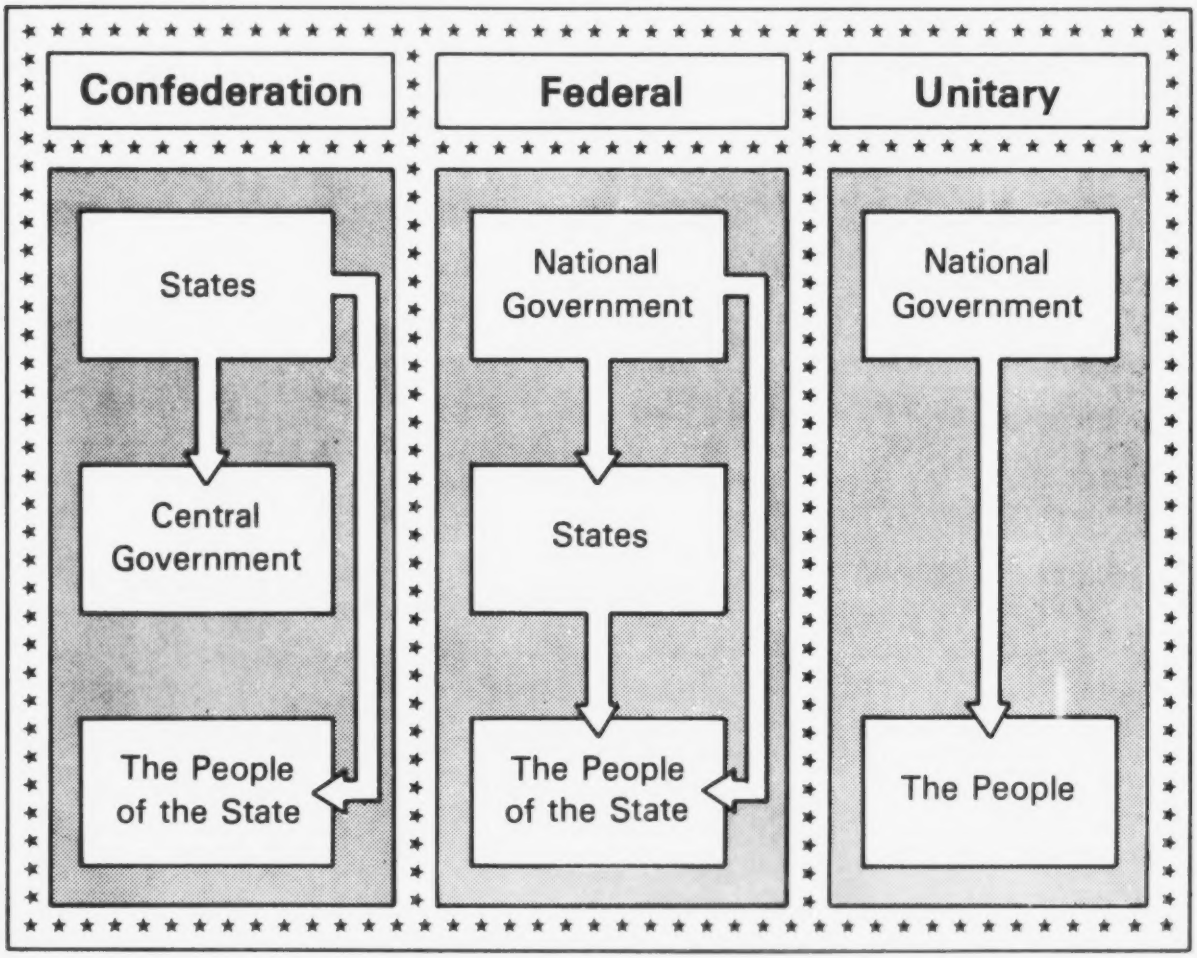
_____

_____

_____

_____

Different Forms of Government



APPENDIX C

Washington's Decision To Attend the Constitutional Convention,
An Exemplar of a Civic Decision Making Lesson

II-6. WASHINGTON'S DECISION TO ATTEND THE CONSTITUTIONAL CONVENTION

LESSON PLAN AND NOTES FOR TEACHERS

Preview of Main Points

This lesson tells about the decision of George Washington to attend the meeting in Philadelphia, which became the Constitutional Convention in 1787. The conflicting pressures, which made Washington's decision difficult, are discussed. A main purpose of this lesson is to introduce decision making as it confronts citizens in a free society. Students are introduced to procedures that help them clarify, analyze, and make decisions.

Connection to Textbooks

This lesson can be used with standard textbook discussions of the events that led to the Constitutional Convention at Philadelphia in 1787. None of the standard textbooks includes a detailed discussion of Washington's difficult decision to attend the Convention. Most of the textbooks do not even mention this interesting and revealing choice. This case study can be used as an introductory lesson to precede textbook treatments of the Constitutional Convention.

Connections to Other Lessons in This Book

This case study is an introduction to a decision making routine and a graphic device to chart decisions (the decision tree), which are applicable to several other lessons in this book. This lesson provides a simple introduction and guide to the basic steps of rational decision making. Many students may be unfamiliar with this decision making routine. If so, this lesson is a prerequisite to several decision-making lessons in various parts of the book. Students who are familiar with lessons about decision making may find this lesson to be a useful review.

Objectives

Students are expected to:

1. Explain the situation that brought about Washington's occasion for decision in this case.
2. Identify Washington's alternatives in this case.
3. Identify reasons for and against a decision by Washington to attend the convention in Philadelphia.
4. Explain why Washington decided to attend the convention.
5. Explain the uses of a decision tree.
6. Use a decision tree to explain the main steps in making a decision, such as Washington's choice to attend the convention.
7. Appraise Washington's decision in terms of the decision's (a) effect on Washington, (b) effect on various others, (c) practicality, (d) fairness.

Suggestions for Teaching the Lesson

This lesson can be used as a "springboard" into textbook discussions of the organization of the convention in Philadelphia. The lesson also may be used as a simple introduction to decision making by citizens, which may be necessary for students who have not encountered this type of lesson before.

Opening the Lesson

- Begin by previewing the main points and purposes of the lesson. This provides students with a sense of direction.

Developing the Lesson

- Have the students read the description of Washington's decision. Then conduct a discussion of the questions that follow the case to make certain that students know the main facts and ideas. These questions appear on page 71.
- Move to the part of the lesson about the analysis of Washington's decision, which introduces a decision-making routine and the decision tree. You might make use of a transparency of a decision tree to guide class discussion of the main parts of the decision making routing—(1) alternatives, (2) consequences, and (3) goals.
- Ask students to give examples of alternatives, consequences, and goals to demonstrate that they understand these ideas.
- Emphasize the meaning of the decision-making routine, so that students will be able to analyze and make decisions systematically in subsequent lessons.
- Have students look at the goals in the decision tree about Washington's decision. Then ask them to answer the questions about goals on page 72.
- Have students look at the consequences in the decision tree. Then ask them to complete the activity on page 72, which involves listing of positive and negative effects of Washington's alternatives.
- Have students discuss the questions on page 72 about the practicality of Washington's decision.

Concluding the Lesson

- Conclude the lesson by conducting a discussion of the questions at the end of the lesson, on page 72.
- The final question involves an overall judgment about the worth of Washington's decision. Ask students to support their judgment with evidence and examples drawn from the case study of Washington's decision and their examination of the decision tree.

Note on Uses of Evidence

This lesson introduces students to the use of quotations from letters as an historical source. Two aspects might be worth pointing out to the students. First, the students will quickly see that language in the 18th century was different from the language of today. Students should be urged to keep this in mind when they read historical sources, including the Constitution itself. Second, the students may wonder about the dots in the middle of the first quotation from a Washington letter. This of course is an ellipsis, which indicates that some words have been left out of a quotation. This is used in many forms of writing. Students should be aware of this usage. The ellipsis is designed to allow a writer to quote from the most relevant parts of a letter, speech, or article (or any other source) without quoting the

entire source. Sometimes an ellipsis may be used to emphasize a point, while cutting out unnecessary material in the middle of a passage. Students should also be aware that it is possible to change the meaning of a sentence through an ellipsis. Such a use—or misuse—of an ellipsis is something like lying, because an author who misuses an ellipsis in that way is attributing a statement to a source when in fact the source did not make such a statement.

How to Use Decision Trees in *Lessons on the Constitution*

Several lessons in this book involve the use of a decision tree to analyze historical events or situations. For example, Lesson IV-6 has students use a decision tree to study Jefferson's decision to purchase Louisiana. What is a decision tree?

The decision tree is an analytical tool that helps students study the decisions of others as well as make their own decisions. It is based on a problem-solving procedure that involves mapping the likely alternatives and consequences of an occasion for decision.*

Decision trees may be used by students of history or government to analyze complex issues or events, to study key decisions in history and/or to sharpen critical thinking/information acquisition skills through analysis of historical cases.

How do students use decision trees? In Lesson II-6 students apply a decision tree to George Washington's decision to attend or stay away from the Constitutional Convention. *This lesson is designed to introduce students to the decision tree.* Reading the lesson (whether you, the teacher, plan to teach it or not) will help you understand this teaching strategy.

Decision trees graphically show the four key elements of decision making. As students fill in decision trees, they use these elements to analyze historical issues and decisions in a systematic fashion. These elements are discussed briefly below.

1. *Confrontation with the need for choice—an occasion for decision.* An occasion for decision is a problem situtation where the solution is not obvious. The occasion for decision is the *context* for the decision problem. For example, Washington, an advocate of a strong central government, was invited to attend the Constitutional Convention. To go to the Convention involved serious political risks. Furthermore, Washington felt pressured to stay home to deal with serious personal problems. However, he wanted to be part of any moves to change the government of the United States.

2. *Determination of important values or goals affecting the decision.* One goal for Washington was to deal with his problems at home. Another goal, however, was to strengthen the government of the United States of America.

3. *Identification of alternatives.* Alternatives in this situation were to attend the Convention or to stay at home.

4. *Predicting the positive and negative consequences of alternatives in terms of stated goals or values.* Washington considered likely consequences of his choices. For example, to attend the Convention could lead him to neglect family problems. Missing the Convention would forfeit his opportunity to help improve the government. However, staying at home would avoid any political risks, if the Convention failed.

"Climbing the Decision Tree."

Once they have studied the *occasion for decision,* students may begin work on the remainder of the decision tree at any point. There is no one "correct" or "right" place to start on a decision tree. Sometimes students may start at the bottom with *alternatives* and work up. With other problems it may be more natural or appropriate to begin by considering the *values or goals* in a problem and work down. The students' perception of the goals involved in a decision or the alternatives available may change as they work their way through the decision tree.

Using Facts and Values

When using a decision tree, students learn that both facts and values are involved in decision making. Facts are involved when decision-makers identify and consider alternatives and their likely consequences. Should Washington attend the Constitutional Convention? In part his decision involved assessing facts. Who called the Convention? Did other leaders plan to attend? Did Congress approve of the meeting?

Values and value judgments are also a critical part of thoughtful decision making. Decision makers express value judgments when labeling consequences as negative or positive. While establishing goals, the decision maker is engaged in thinking about values and in ethical reasoning. Such thinking involves asking, "What is important, what do I want, and what is right or wrong in this situation?"

Suggested Reading

Flexner, James Thomas. *George Washington and the New Nation: 1783-1793.* Boston: Little, Brown and Company, 1970, 30-111. This book is part of a set of four volumes on the life of Washington. It is considered the best biography of Washington. Pages 30-111 tell about the events of Washington's life from 1783-1787, prior to his participation in the Constitutional Convention.

Flexner, James Thomas. *Washington: The Indispensable Man.* Boston: Little, Brown and Company, 1969. This book is available in paperback and highly readable. Many high school juniors and seniors will find it an enjoyable and worthwhile biography.

*See, for example, Howard Raiffa, *Decision Analysis* (Reading, MA: Addison-Wesley Publishing Company, 1968). The decision tree, as used here, was developed by Roger LaRaus and Richard Remy as part of the work of the Mershon Center at The Ohio State University. See Roger LaRaus and Richard C. Remy, *Citizenship Decision Making: Skill Activities and Materials* (Menlo Park, CA: Addison-Wesley, Innovative Publications Division, 1978).

WASHINGTON'S DECISION TO ATTEND THE CONSTITUTIONAL CONVENTION

Background to a Difficult Decision

When the Revolution ended General George Washington went home. After eight years of continuous service to his country, the man who had become the greatest hero of his age, both in America and abroad, retired from public office. Washington wanted to enjoy the last years of his life as a gentleman farmer on his Virginia plantation. Although Washington had spent almost his entire life in public service—as a surveyor of western lands, a politician, and a soldier in two wars—he always claimed to prefer the life of a planter.

At 51, Washington felt relieved that he no longer had to bear the great responsibilities of leading an army and helping to create a nation. He wrote his friend and former comrade-in-arms, the Marquis de Lafayette:

> I am become a private citizen on the banks of the Potomac, and under the shadow of my own vine and my own fig tree. Free from the bustle of a camp and the busy scenes of public life, I am. . . not only retired from all public employment, but I am retiring within myself, and shall be able to wend the solitary walk and tread the paths of private life with heartfelt satisfaction. Envious of none, I am determined to be pleased with all, and this, my dear friend, being the order of my march, I will move gently down the stream of life until I sleep with my fathers.

In a letter to the American people Washington declared he would never again "take any share in public business." He also issued a warning about the need for a stronger national government. During the war Washington's troops often went without adequate food or clothing. Moreover, many never received the wages owed them because the government under the Articles of Confederation proved unable to raise money through taxation. Without exaggerating, Washington wrote: "No man in the United States is, or can be, more deeply impressed with the necessity of reform in our present Confederation than myself."

Washington's advice went unheeded, and no amendments were added to the Articles of Confederation. Consequently, from 1783 to 1786, the new American nation suffered from an ineffective national government. Many citizens doubted that the weak United States could survive. It seemed likely that the fragile national union would disband into several competing republics.

As the nation's troubles worsened, many citizens, and some state governments, saw that the Articles of Confederation needed to be changed. In 1786 representatives from five states met at Annapolis, Maryland to discuss ways to reform the national government. The Annapolis Convention, as this meeting was known, accomplished little. However, it set the stage for the Constitutional Convention a year later. The men who met at Annapolis called for such a Convention to convene in Philadelphia in May 1787. A number of states quickly endorsed the idea and eventually, a reluctant Congress agreed to the proposal. The organizers officially invited each state government to select delegates who would participate in the meeting to amend the Articles of Confederation.

The Occasion for a Decision

The Virginia government chose Washington to head the state delegation. Washington, however, was puzzled about whether to go to Philadelphia. There seemed to be important reasons for staying at home.

George Washington faced a difficult decision. Should he attend the Convention in Philadelphia?

Reasons for Not Going to the Convention

Washington certainly did not feel up to a long, hard trip. He was 55-years-old, and he often felt older. His body usually ached from rheumatism; sometimes he could not lift his arm as high as his head.

Family problems were pressing Washington. His 79-year-old mother was very ill, as was his sister. They lived nearby and often asked for help. His brother had died in January 1787, which depressed Washington very much. He also wanted to help his dead brother's children.

The general's wife, Martha, did not want her husband to leave home again. She had hardly seen him during the eight years of the War for Independence. After the war, in 1783, she said: "I had anticipated that from this moment we should have been left to grow old in solitude and tranquility together." Likewise, Washington was reluctant to once again forsake the comforts of his home for public service.

Business problems constantly worried Washington. He hesitated to leave his plantation because the place needed his attention. He had repairs to make and debts to pay. He believed he owed it to himself and his family to attend to these matters.

The political reasons for staying home loomed larger than the personal reasons. First, what if the convention failed? What if most states didn't bother to send delegates? Washington might endure embarrassment. His great repututation might suffer. His old friend, Henry Knox, advised him to stay home to protect his good name. Even James Madison, the Convention's strongest

supporter, wrote: "It ought not to be wished by any of his friends that he should participate in any abortive undertakings."

John Jay, another strong supporter of the Convention, reminded Washington that the convention wasn't quite legal. The organizers of the Philadelphia Convention were ignoring the legal procedures for amending the Articles of Confederation. The Congress had not yet approved of the Convention. Should Washington go to a meeting that citizens might view as illegal?

Washington also remembered his promise to stay out of "public business." If he accepted election as a delegate to the convention, people might say that he had broken his word. They might also think he wanted to use the convention to gain power in the government. Did he want to risk being called a hypocrite? Did he want to seem to be a schemer in pursuit of personal power and glory?

Reasons for Going to the Convention

On February 21, Congress recognized the Convention, giving the meeting an appearance of legality.

By the end of March, most states appeared ready to send delegates to Philadelphia. Only Rhode Island seemed likely to boycott the meeting. No one doubted that a convention, which might be successful, would meet. How would Washington feel if that convention accomplished great things in his absence? Would his reputation suffer if the delegates made great decisions while he stayed home?

Washington found out that most of the delegates already selected had great reputations. As a delegate to the Convention, he would belong to a select group.

During March 1787, Washington received many letters urging him to attend the convention. His wartime comrades asked their general to preserve the fruits of their victory by helping to create an effective national government. Henry Knox changed his advice. He wrote "It is the general wish that you should attend."

Some leaders believed that Washington's participation might make the difference between success or failure at the Convention. The citizens respected Washington so much that his attendance would make the Convention seem legitimate.

Why Washington Decided to Go

On March 28, George Washington wrote Governor Randolph agreeing to lead the Virginia delegation in Philadelphia. Washington feared that Americans would consider him a bad citizen if he did not participate in an event of such great significance. He decided his duty required him to attend the Convention.

Washington very much wanted his new nation to succeed. "To see this country happy. . . is so much the wish of my soul," he wrote. He had to help, whatever the personal or political risks.

His fellow citizens needed him, so Washington once again rose to the challenge of public responsiblity. He mustered his strength and went to Philadelphia in May 1787.

Henry Knox observed: "Secure as he was in his fame, he has again committed it to the mercy of events. Nothing but the critical situation of his country would have induced him to so hazardous a conduct."

EXERCISES FOR LESSON II-6

Reviewing Facts and Main Ideas About Washington's Decision

1. What was the difficult decision facing George Washington in 1787?
2. What political events brought about Washington's decision.
3. What were main reasons for *not* attending the Constitutional Convention in Philadelphia?
4. What were main reasons for attending the Constitutional Convention?

Analysis of Washington's Decision

George Washington's decision to attend the Constitutional Convention involved **alternatives, consequences,** and **goals.** Anyone faced with a difficult decision should think carefully about these questions:

1. What are my alternatives or choices?
2. What are the possible and probable consequences, or outcomes, of each choice?
3. What are my goals? (What do I want or value in this situation?)
4. In view of my goals, which consequences are best in this situation?
5. What choice or decision should I make? (Which choice is most likely to lead toward my goals?)

You can use a decision tree to keep track of a decision maker's answers to the questions about goals, alternatives, and consequences. Look at the decision tree, on page 73, about George Washington's decision to attend the convention. This decision tree is a chart, which shows the alternatives, consequences, and goals that were involved in Washington's occasion for decision—whether or not to attend the convention.

Look at the Decision Tree and answer this question: What were Washington's alternatives in this case?

Washington's main goals in this case reveal his values—his beliefs about what is good or bad, right or wrong. The goals in this chart are guides to Washington's choice to attend the Constitutional Convention. They help us to understand why he thought one alternative was better than the other in this occasion for decision.

Look at the decision tree and answer these questions:

1. What were Washington's goals in this case?
2. What do Washington's goals tell us about his values?
3. How do Washington's goals and values explain his decision to attend the Convention?

Identifying alternatives, consequences, and goals can help you understand and analyze any decision-making situation. Good decisions have good consequences for the decision maker and others. The outcomes are desirable for the people affected by the decision.

Look at the decision tree and answer these questions:

1. What were positive and negative consequences associated with a decision to go to the Convention?
2. What were positive and negative consequences of a decision **not** to go to the Convention?

Washington's decision had some positive and negative effects on him and others. Make two lists. **First review the case study and identify how Washington's decision was likely to affect him. Next, review the case study and decision tree and identify how the decision was likely to affect various other individuals and groups.**

A **fair decision** balances the needs and wants of individuals with the needs and wants of the community to which they belong. **On balance, did Washington's decision seem fair to himself and others?**

Choosing a desirable consequence that is unlikely or impossible to achieve is not a practical decision. Thus, it is not a good decision. It is foolish to make decisions that are not very practical. **Was Washington's decision a practical choice?**

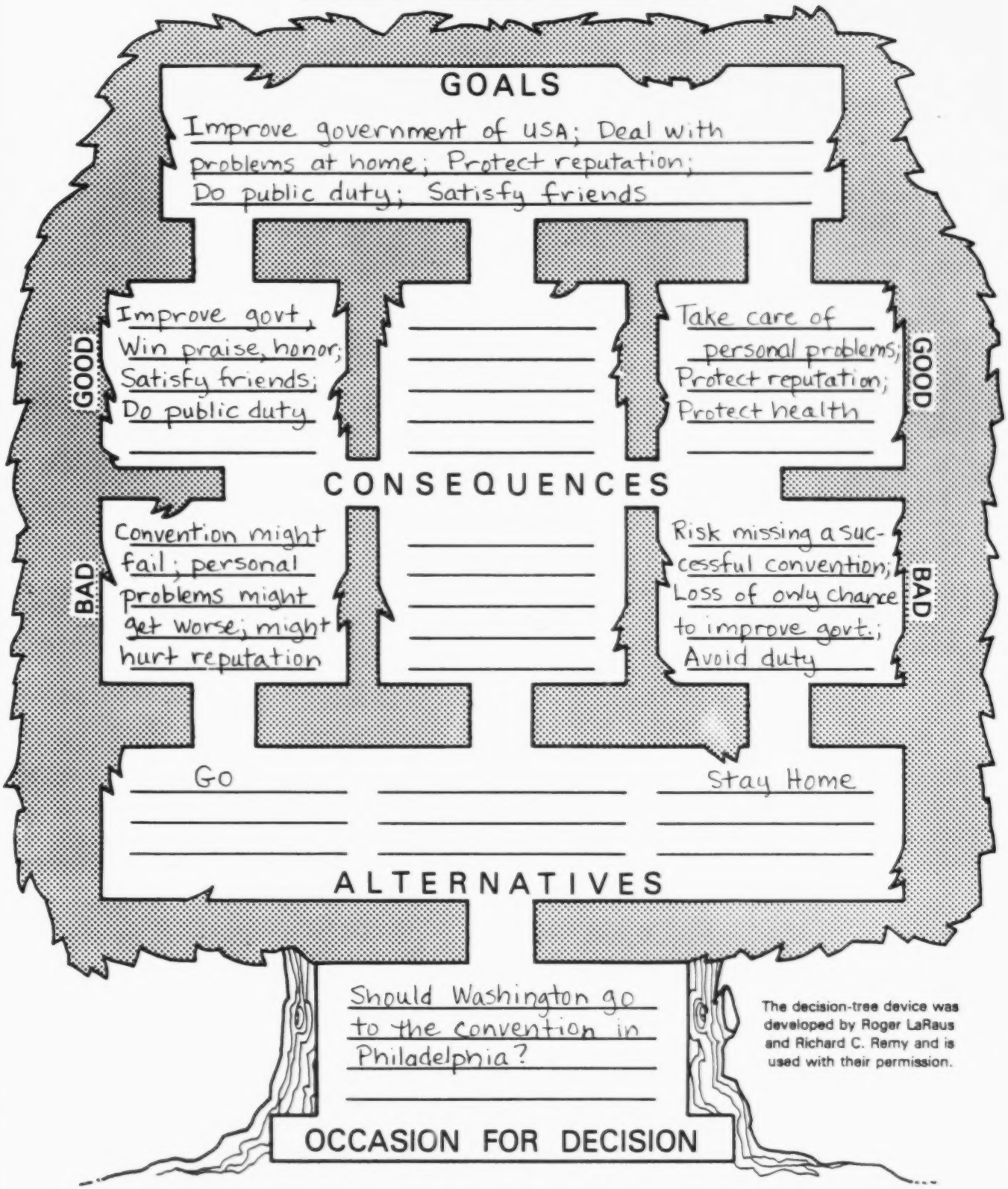
A chart, such as the decision tree, can help you to keep track of alternatives, consequences, and goals in any occasion for decision. The decision tree can help you to clarify your own decisions and to analyze the decisions of others.

When using the decision tree, you sometimes may wish to start with the alternatives and work your way to the goals. Sometimes, however, it may seem easier to start with goals by asking: What is best in this situation? You may enter the decision tree at different places when analyzing or making different decisions.

Reviewing the Use of a Decision Tree

1. What is a decision tree?
2. What are the uses of a decision tree?
3. Explain each of these parts of a decision tree:
   a. occasion for decision
   b. alternatives
   c. consequences
   d. goals
4. Do you believe that Washington made a good decision in this case? Explain.

DECISION TREE


GOALS
Improve government of USA; Deal with problems at home; Protect reputation; Do public duty; Satisfy friends
GOOD
Improve govt, Win praise, honor; Satisfy friends; Do public duty
Take care of personal problems; Protect reputation; Protect health
GOOD
CONSEQUENCES
BAD
Convention might fail; personal problems might get worse; might hurt reputation
Risk missing a successful convention; Loss of only chance to improve govt.; Avoid duty
BAD
Go
Stay Home
ALTERNATIVES
Should Washington go to the convention in Philadelphia?
OCCASION FOR DECISION

The decision-tree device was developed by Roger LaRaus and Richard C. Remy and is used with their permission.

APPENDIX D

Stretching The Constitution:
Jefferson's Decision To Purchase Louisiana,
An Exemplar of a Civic Decision Making Lesson

IV-6. STRETCHING THE CONSTITUTION: JEFFERSON'S DECISION TO PURCHASE LOUISIANA

LESSON PLAN AND NOTES FOR TEACHERS

Preview of Main Points

This lesson is about the constitutional significance of President Jefferson's decision to purchase the Louisiana Territory. Constitutional issues are examined, which pertain to the interpretation of federal government powers and the nature of the Federal Union. The effects of Jefferson's decision on constitutional development are assessed.

Connection to Textbooks

American history textbooks discuss the Louisiana Purchase. The issue of constitutional interpretation is raised. This lesson can be used in conjunction with the typical textbook discussion of the Louisiana Purchase. In-depth commentary is provided that can enrich the textbook treatments.

Objectives

Students are expected to:

1. Understand how Jefferson was confronted with the decision to purchase Louisiana.
2. Comprehend the constitutional issue about strict versus broad construction, which was raised by this decision.
3. Comprehend the constitutional issue about the nature of the Federal Union, which was raised by this decision.
4. Explain why Jefferson decided to purchase Louisiana.
5. Practice skills in analzying and judging a political decision.
6. Practice skills in interpreting evidence in primary source material.

Suggestions for Teaching the Lesson

This is a case study lesson, which provides in-depth information about an important presidential decision. Use questions presented at the end of the lesson to help students comprehend and analyze the facts and ideas of the case.

Opening the Lesson

- Inform students about the main points of the lesson.
- Ask them to present their opinions about why the decision to purchase Louisiana was the most important decision of Jefferson's two terms as President. Tell students that they'll have an opportunity to check their opinions against the facts of this case study.

Developing the Lesson

- Have students read the case study.
- Ask them to answer the questions about reviewing facts and ideas. You might wish to check student comprehension of the case by conducting a discussion of these questions.
- Move to consideration of the interpreting evidence questions. Have students review the two excerpts from primary sources, which are mentioned in this activity.
- Conduct a discussion of the questions about interpreting evidence.

Concluding the Lesson

- Have students use a "Decision Tree" chart to help them practice skills in analyzing and judging decisions.
- Divide the class into small groups of five or six members. Tell each group to use the "Decision Making" questions as guides to completing a decision tree about Jefferson's decision in this case.
- Ask one person in each group to be prepared to report the conclusion of the group about Jefferson's decision.
- Have the reporters from each group form a panel to discuss Jefferson's decision in front of the class. Encourage other students to question, criticize, or otherwise interact with the panelists.

Suggested Reading

Here are two chapters from outstanding history books, which provide substantial and illuminating discussions of the Louisiana Purchase.

Burns, James MacGregor. *The Vineyard of Liberty.* New York: Alfred A. Knopf, 1982, 172-182.

Morris, Richard B. *Great Presidential Decisions: State Papers That Changed the Course of History.* New York: Harper & Row Publishers, Perennial Library, 1973, 56-68.

STRETCHING THE CONSTITUTION: JEFFERSON'S DECISION TO PURCHASE LOUISIANA

President Thomas Jefferson faced a difficult decision during the summer of 1803. Napoleon, the Emperor of France, had offered to sell Louisiana to the United States for $15 million. This vast territory extended westward from the Mississippi River to the Rocky Mountains and southward from the Canadian border to the Gulf of Mexico and the Spanish territories of Texas and New Mexico.

Jefferson had wanted to buy only the region around the mouth of the Mississippi River which included the port of New Orleans for $2 million. American farmers in the Ohio River Valley depended on access to New Orleans. They loaded their crops onto boats and rafts and floated them down the Mississippi to New Orleans. From New Orleans ships transported the crops to American cities along the Atlantic coast and to other countries. Americans feared that the French might interfere with their trade by imposing high taxes on products and ships moving through New Orleans. Worse, they dreaded that the French might close the port to Americans.

Napoleon's desire to sell not only New Orleans, but also the entire Louisiana Territory, an area of about 828,000 square miles, astounded President Jefferson. This territory was about as large as the total land area of the United States in 1803; and it was bigger than all of Western Europe. Although the total purchase price seemed high, it was not beyond the means of the United States to pay for it. Offered at a cost of four cents per acre, the land was a bargain.

Jefferson was excited by the chance to buy all of Louisiana. However, the President was not sure if he had the power under the Constitution to accept Napoleon's offer. He faced two related constitutional issues:

1. strict versus broad construction of the Constitution;
2. the nature of the Federal Union.

The Issue of Strict Construction

As leader of the Republican Party, Jefferson held the view of a "strict constructionist." He believed that the powers of the national government should be rigidly limited to those explicitly granted in the Constitution. According to a strict constructionist interpretation of the Constitution, Jefferson could not buy Louisiana because no statement in the Constitution granted power to the President or Congress to buy territory from another country.

According to the broad constructionists such as Alexander Hamilton, the President could use the "necessary and proper clause" (Article I, Section 8) to justify the assumption of powers not explicitly granted in the Constitution. This clause says: "The Congress shall have power. . . to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States, or in any department or officer thereof." (This clause is also known as the "elastic clause.")

Jefferson wanted to buy Louisiana, but he was reluctant to stretch the powers of the national government, as his Federalist party rivals had done during the 1790s when they had established a national bank. Jefferson expressed his dilemma in a letter to John Breckinridge of Kentucky, a Republican leader in the Senate:

> The treaty must of course, be laid before both Houses, because both have important functions to exercise respecting it. They, I presume, will see their duty to their country in ratifying and paying for it, so as to secure a good which would otherwise probably be never again in their power. But I suppose they must then appeal to the nation for an additional article [amendment] to the Constitution, approving and confirming an act which the nation had not previously authorized. . . .

The President believed that only an amendment to the Constitution could provide him with the constitutional authority to complete this deal with France. With the help of James Madison, the Secretary of State, President Jefferson drafted a proposed amendment to the Constitution:

> Louisiana as ceded by France to the United States is made a part of the United States. Its white inhabitants shall be citizens, and stand, as to their rights and obligations, on the same footing with other citizens of the United States in analogous situations.

Jefferson quickly dropped the idea of pressing for a constitutional amendment on the purchase of Louisiana. The amending process would take too much time. Napoleon might withdraw his offer while the amendment was pending. James Madison and other trusted leaders of the Republican Party also argued that the treaty-making power sanctioned in the Constitution could by extension legitimize the purchase of Louisiana. (See Article 2, Section 2.)

Jefferson agreed reluctantly with his advisers and decided to submit the treaty with France on the Louisiana purchase to the Senate for ratification. The President

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justified his action by saying that "the good sense of our country will correct the evil of loose construction when it shall produce ill effects." Ironically, Jefferson, the champion of strict construction, had made a major decision based on a broad construction interpretation of the Constitution.

An Issue About the Nature of the Federal Union

Before the treaty to purchase Louisiana could become binding, the Senators had to ratify the treaty by a two-thirds majority vote. (See Article 2, Section 2 of the Constitution.) Also, majorities in both the Senate and the House of Representatives had to appropriate the money needed to pay France (Article I, Section 7).

Most members of Congress agreed that the federal government possessed the constitutional power to purchase Louisiana. However, several members of Congress opposed Article III of the treaty, which stated: "The inhabitants of the ceded territory shall be incorporated in the Union of the United States, and admitted as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights, advantages, and immunities of citizens of the United States. . . ." In other words, this part of the treaty implied that new states would be carved out of the Louisiana Territory and admitted to the Federal Union equal to and with the full rights of the original states.

Representative Roger Griswold, a Federalist from Connecticut, argued: "A new territory and new subjects may undoubtedly be obtained by conquest and by purchase; but neither the conquest nor the purchase can incorporate them into the Union. They must remain in the condition of colonies and be governed accordingly."

According to Griswold and his followers, the original thirteen states and other states made from territory belonging to the United States in 1788 when the Constitution was ratified should be superior to any territories subsequently acquired by the federal government. Griswold argued that the United States should hold Louisiana, if it purchased the territory, as only a colony.

Senator Timothy Pickering of Massachusetts, another Federalist, said that new states could not be made from the Louisiana Territory unless every state in the nation agreed to their creation. He argued that as the Federal Union was a partnership of states who had created it, no one could admit new states to this partnership without the unanimous agreement of the other states.

In Pickering's view the Federal Union derived its power primarily from the states rather than from the people of the nation as a whole. His idea reflected views more compatible with the nature of the Union under the Articles of Confederation than with the federal system of the Constitution.

A Decision and Its Consequences

Most members of Congress disagreed with Griswold and Pickering. On October 17, 1803, the Senate ratified Jefferson's treaty by a vote of 24 to 7. The House of Representatives voted to appropriate the money needed to make the purchase. The Senate also passed the money bill, empowering the President to conclude the deal with France, which he did.

Jefferson explained his deviation from strict construction of the Constitution:

> A strict observance of the written laws is doubtless **one** of the high duties of a good citizen, but it is not **the highest.** The laws of necessity, of self-preservation, of saving our country when in danger, are of higher obligation. To lose our country by a scrupulous adherence to written law, would be to lose the law itself, with life, liberty, property and all those who are enjoying them with us; thus absurdly sacrificing the end to the means.

Later, the President said: "Is it not better that the opposite bank of the Mississippi should be settled by our own brethren and children than by strangers of another family?" Americans responded by moving westward to populate and develop the new territory. The commissioned territory eventually made up all or part of thirteen states: Arkansas, Colorado, Iowa, Kansas, Louisiana, Minnesota, Missouri, Montana, Nebraska, North Dakota, Oklahoma, South Dakota, and Wyoming.

Through the purchase of Louisiana, the United States became one of the largest nations on earth. Later on, Americans learned that the territory included many acres of fertile soil and other valuable natural resources. Louisiana proved a richer prize than anyone imagined it at the time of its purchase.

In 1828, the Supreme Court affirmed the constitutionality of Jefferson's decision to purchase Louisiana. In *American Insurance Company v. Canter,* Chief Justice Marshall ruled that the federal government could acquire new territory under the treaty-making clause of the Constitution.

The decision to make the Louisiana Purchase was one of Thomas Jefferson's most important as President. He added greatly to the size and wealth of the United States. Furthermore, he contributed substantially, though unwillingly, to the precedent that, when necessary, the Constitution may be broadly interpreted to serve the public interest.

EXERCISES FOR LESSON IV-6

Reviewing Facts and Ideas

1. Why did President Jefferson want to purchase the region around New Orleans?
2. Why did the President hesitate to accept Napoleon's offer to sell the entire Louisiana Territory to the United States? Select one or more of the following answers. Explain your selections.
   a. the price was too high
   b. a majority of citizens opposed the purchase
   c. he was a strict constructionist
3. Why did James Madison believe that the President had a constitutional right to purchase Louisiana?
4. Why did Congressman Griswold oppose Article III of the Treaty to purchase Louisiana?
5. Why did Senator Pickering oppose Article III of the Treaty to purchase Louisiana?
6. What reasons did Jefferson use to explain his decision to purchase Louisiana?
7. How did Jefferson's decision to purchase Louisiana help to shape the meaning of the Constitution?

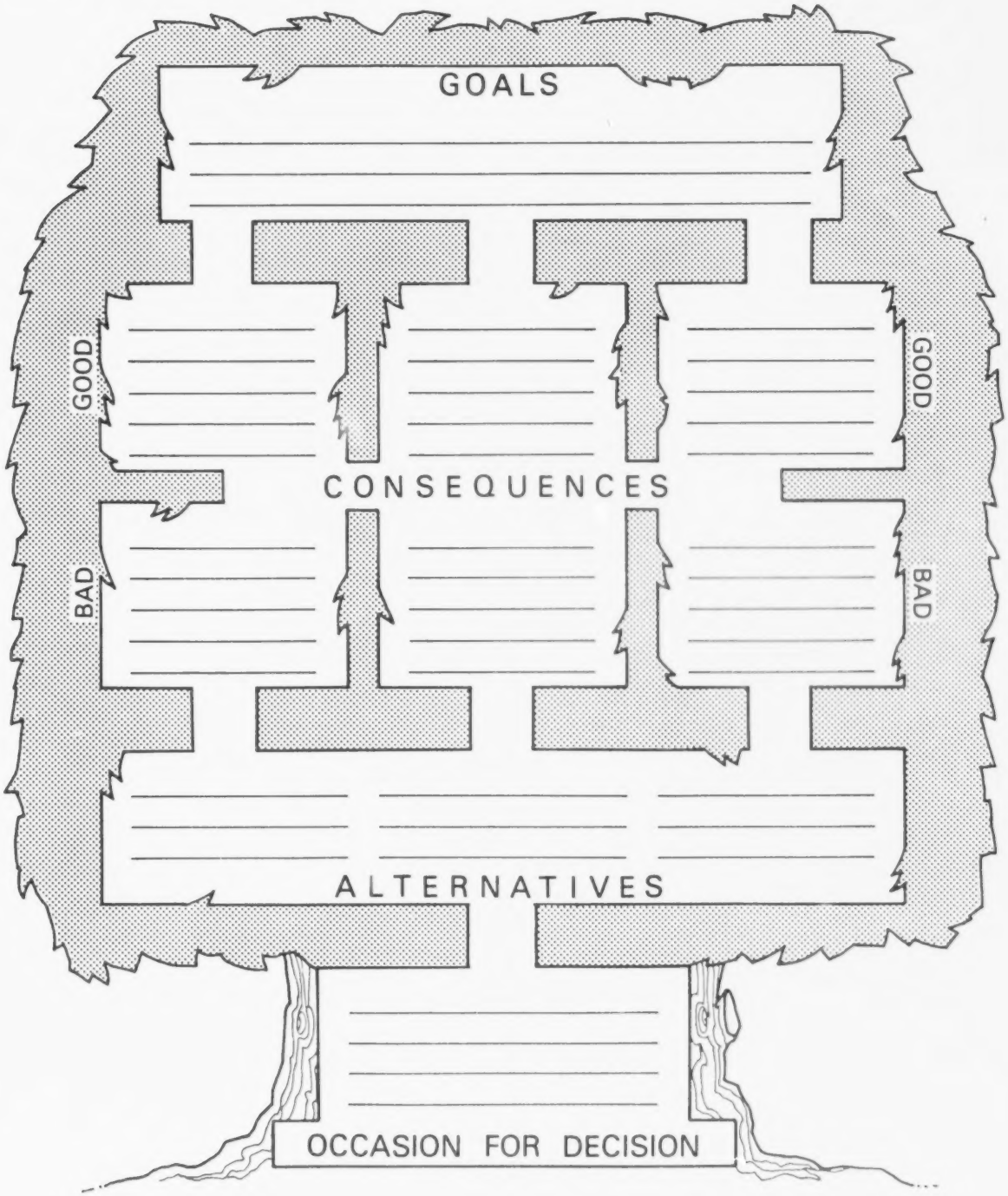
Interpreting Evidence

1. Refer to the excerpt from Jefferson's letter to Senator Breckinridge on page 215.
   a. Why did Jefferson say that the treaty had to be presented to both houses of Congress?
   b. Why did Jefferson say that the Constitution needed amending?
2. Refer to Jefferson's explanation, page 216, of his deviation from the strict constructionist position.
   a. What is the main idea of this statement?
   b. Does this statement exemplify the strict constructionist position or the broad constructionist position? Explain.
   c. Does this statement suggest lack of respect for the Constitution as the supreme law of the land?
   d. To what extent do you agree or disagree with this statement?
3. Why do you think the "necessary and proper" clause of Article I, Section 8 is sometimes called the "elastic clause" of the Constitution?

Decision Making

1. Why did Jefferson have the opportunity to decide whether or not to purchase Louisiana?
2. What alternatives did the President have?
3. What were likely consequences (positive and negative) of Jefferson's alternatives?
4. What were the President's goals?
5. Why did the President decide to purchase Louisiana?
6. How do you appraise Jefferson's decision? Was it a good decision?

DECISION TREE



The decision-tree device was developed by Roger LaRaus and Richard C. Remy and is used with their permission.

APPENDIX E

The Limits Of Presidential Power:
Truman's Decision To Seize The Steel Mills,
An Exemplar of a Supreme Court Case Study Lesson

IV-13. THE LIMITS OF PRESIDENTIAL POWER: TRUMAN'S DECISION TO SEIZE THE STEEL MILLS

LESSON PLAN AND NOTES FOR TEACHERS

Preview of Main Points

In the case of *Youngstown Sheet & Tube v. Sawyer*—often known as the steel seizure case—the Supreme Court struck down President Truman's Executive Order to seize the nation's steel mills in order to prevent a strike during the Korean War. The case involved the principle of separation of powers with the Court ruling that the President had no power under the Constitution to seize private property unless Congress authorized the seizure.

Connection to Textbooks

This lesson can be used with government textbook material on separation of powers, the powers of the President, or the powers of Congress. The lesson could enrich history text discussions of separation of powers, the Truman Presidency, or the growth of presidential power.

Objectives

Students are expected to:

1. Explain the circumstances leading up to the *Youngstown* case.
2. Identify the key participants and constitutional issues involved in the *Youngstown* case.
3. Identify the arguments presented by both sides in the case.
4. Explain the immediate impact of the Court's decision.
5. Explain the longer-term significance of the Court's decision.
6. Use information in the case to make a judgment about the Court's decision.

Suggestions for Teaching the Lesson

Opening the Lesson

- Explain to students how the lesson is connected to their textbook material. Review briefly the meaning of separation of powers.

Developing the Lesson

- Have students read the case study and complete the questions under "Reviewing the Case."

Concluding the Lesson

- Conduct a discussion which gives students an opportunity to make judgments about the Court's decision. Prompt the discussion by asking students these questions:
  1. Do you agree with the majority opinion or with the dissent? Why?
  2. What could be the consequences of letting Presidents expand their power as they saw fit?
  3. On the other hand, what might be the consequences of limiting a President's ability to act forcefully to cope with national emergencies?

Suggested Reading

Marcus, Maeva. *Truman and the Steel Seizure Case: The Limits of Presidential Power.* New York: Columbia University Press, 1977. This book is a case study about the constitutional significance of President Truman's decision to have the federal government take over the steel mills during a national emergency. The author examines events leading to Truman's decision, the Supreme Court decision that disallowed the President's action, and the legal and social consequences of the Court's decision.

THE LIMITS OF PRESIDENTIAL POWER: TRUMAN'S DECISION TO SEIZE THE STEEL MILLS

The separation of powers is a major principle of American government. Under the Constitution, Congress makes laws, the President carries out laws, and the courts make judgments about them.

Of course, this separation is not complete. The system of checks and balances means each branch of government shares to some degree in the job of the others. The President may, for example, veto bills passed by Congress. Still, the concept of the separation of powers aims to prevent the same branch from making, executing, and enforcing the laws.

President Harry Truman tested the limits of presidential power under the Constitution when he ordered the federal government to take control of the nation's steel mills. Truman's order led to the making of a major Supreme Court decision on the constitutional limitations of presidential power.

Background of the Case

In the spring of 1952, President Truman faced a difficult problem. The United States was in the middle of the Korean War, and the nation's steel workers were about to go on strike. Truman and his advisors feared a long strike could bring disaster. American troops in Korea might run short of ammunition and weapons.

The President acted forcefully. On April 8, a few hours before the expected start of the strike, Truman issued Executive Order #10340. This order directed Secretary of Commerce Charles Sawyer to temporarily take control of the nation's steel mills and to keep them running. The steel companies accepted the order but moved to fight Truman's action in court.

Taking temporary control of the steel mills was not the only alternative open to Truman. The President had another way to deal with the strike. He chose not to use it.

In 1947 Congress had passed the Taft-Hartley Act. Under this law, the President could get a court order delaying the strike for 80 days. During this "cooling off" period, the union of steel workers and the steel mill owners would have tried to settle their differences.

Truman disliked the Taft-Hartley Act. He thought it was anti-labor. He had vetoed it in 1947, but Congress had overridden his veto. He had never used the law and would not do so in the steel strike.

Furthermore, Truman believed the blame for the strike did not lie with the steel workers. The union had already postponed the strike four times in an effort to reach a settlement. Government arbitrators had recommended a compromise, which the union had accepted. The steel companies had rejected the arbitrators' recommendations, even though in 1951 the steel companies earned their greatest profits in more than thirty years. President Truman believed the steel companies were using the emergency of the Korean War to force the steel workers to accept low wages. Under such circumstances Truman held the steel companies, and not the steel workers, responsible for the crisis in the industry. Thus, the President issued Executive Order #10340, temporarily seizing the steel mills.

The steel companies quickly challenged Truman's action in the federal district court in Washington, D.C. Within a few days, the Supreme Court stepped in to settle the conflict. The case became known as *Youngstown Sheet and Tube Company v. Sawyer.*

Constitutional Issue

President Truman's order stood as a remarkable assertion of presidential power. The President was not carrying out or acting under a law passed by Congress. No law authorized a President to seize and operate the steel mills. By his order, President Truman was, in effect, making law—a power reserved for Congress by Article I of the Constitution.

Had the President overstepped the constitutional boundary that separated the functions of the legislative and executive branches? Or did the Constitution give Truman powers to protect the nation in times of national emergency?

Arguments

The steel companies argued that the President's order clearly violated the Constitution. They said neither the Constitution nor existing laws gave him authority to seize private property. In addition, Congress had already set up procedures to handle the strike in the Taft-Hartley Act. Thus, they claimed the President had exceeded his constitutional authority.

The President argued that his authority, as chief executive under Article II of the Constitution, gave him power to keep steel production going in times of national emergency. In addition, he argued that his power as commander-in-chief allowed him to take actions necessary to protect the lives of American troops. This power included ensuring a steady flow of steel to produce weapons.

The Decision

Truman lost the argument. On June 2, the Supreme Court ruled 6-3 against the President. The majority of

the Court held Truman's seizure of the steel mills an unconstitutional exercise of power.

Justice Hugo L. Black, in the majority opinion, said that the President had no power, either as chief executive or commander-in-chief, to seize private property—even temporarily and during a national emergency. Black said that the power to authorize such an action belonged to Congress, not to the President. Thus, Truman could not seize the steel mills unless Congress passed legislation enabling him to do so. As Congress had not done so, the seizure was illegal.

Black noted that, in writing the 1947 Taft-Hartley Act, Congress had considered letting Presidents seize plants in the events of strikes but rejected the idea. Thus, by his executive order Truman had attempted to make his own law. Yet the Constitution, Black said, did not permit him to do so. The Constitution limited the President "to the recommending of laws he thinks wise and the vetoing of laws he thinks bad."

Justice William O. Douglas concurred. Douglas said he was shocked by the "legislative nature of the action taken by the President."

Three justices, all Truman appointees, issued a strong dissent. They argued that during a grave national crisis, such as the Korean War, the Constitution allowed the President to exercise unusual powers. Chief Justice Vinson wrote, "Those who suggest that this is a case involving extraordinary powers should be mindful that these are extraordinary times." Vinson added that Truman's actions followed the tradition of taking extraordinary actions during a time of crisis established by Presidents like Lincoln, Cleveland, Wilson, and Franklin Roosevelt.

Significance of the Decision

Immediately, the *Youngstown* decision required the government to return the steel mills to their owners. Truman promptly complied with the Court's ruling even though he strongly disagreed with it. The steel strike began and lasted for 53 days. When it ended, the steel companies agreed to a contract within one cent of that recommended by the government arbitrators. Truman never used the Taft-Hartley Act to intervene. The President did claim that in the summer and fall of 1952 the strike caused some shortages of ammunition.

Truman later wrote that the Court's decision "was a deep disappointment to me." He added, "I think Chief Justice Vinson's dissenting opinion hit the nail right on the head, and I am sure that someday his view will come to be recognized as the correct one."

The President had every reason to be disappointed. The *Youngstown* case stands as one of the rare instances when the Supreme Court flatly told a President he had overstepped the limits of his constitutional power.

In this decision, the Court clearly established that there are limits on the powers a President can derive from the Constitution, even during a national emergency. For nearly twenty years presidential power had been growing through a series of crises including the Great Depression and World War II. The *Youngstown* decision had the effect of slowing this steady growth of the emergency powers of the presidency.

This case shows how strong Presidents can try to expand the powers of the presidency. The case also shows how the Supreme Court can act to preserve the separation of powers inherent in our system.

EXERCISES FOR LESSON IV-13

Reviewing the Case

1. Describe the events leading up to the *Youngstown* case.
2. Why did President Truman not want to use the Taft-Hartley Act to settle the steel strike?
3. What was the issue in the *Youngstown* case? What were the arguments on each side?
4. What did the Court decide?
5. What reasons did the majority give for its decision?
6. What position did Chief Justice Vinson take in his dissent?

APPENDIX F

You Be The Judge:
The Case of *Camara v. Municipal Court of The City and County of San Francisco,* An Exemplar of a Judicial Decision Simulation Lesson

IV-14. YOU BE THE JUDGE: *CAMARA V. THE MUNICIPAL COURT OF THE CITY AND COUNTY OF SAN FRANCISCO*

LESSON PLAN AND NOTES FOR TEACHERS

Preview of Main Points

This lesson focuses on how the Supreme Court actually makes decisions. Students (working individually or in small groups) decide the Supreme Court case of *Camara v. The Municipal Court of the City and County of San Francisco* (1967). The lesson gives students the facts of the case, the relevant parts of the Constitution, a key precedent, and the lawyers' arguments in the case. After students make their own decision they examine how the Supreme Court actually decided the case by examining excerpts from the Court's opinion.

Connection to Textbooks

This lesson can be used with government textbook material on the judicial process, the Bill of Rights, or the Supreme Court. It can be used with history textbook discussions of the Bill of Rights or the Supreme Court. The lesson provides a more detailed look at how judicial decisions are reached than textbooks are able to do.

Objectives

Students are expected to:

1. Identify the facts and constitutional issue in the *Camara* case.
2. Make a judgment about the constitutionality of actions of San Francisco city officials and interpret the meaning of the Fourth Amendment's ban on "unreasonable searches and seizures."
3. Give their own decisions and reasoning about the *Camara* case.
4. Identify reasons presented in the majority and minority opinions.
5. Compare that reasoning with their own (group) reasoning.
6. Develop a greater understanding of the process of judicial decision making.

Suggestions for Teaching the Lesson

This lesson can be used as an "in-depth" study accompanying the textbook discussions of the Bill of Rights, the judicial process, or the Supreme Court.

Opening the Lesson

- Preview the main part of the lesson for students.
- Explain how this lesson is connected to the material they have just studied in the texbook.

Developing the Lesson

- Have students read the case study. Do **not** distribute the separate sheet titled "The Supreme Court Decides."
- Have students complete "You Decide" located at the end of the reading. Students may complete "You Decide" working individually or in small groups.
- If students are to work in small groups, divide the class into groups of five or seven (or any uneven, manageable number). Have the groups quickly choose a Chief Justice to lead the discussion and to report their decision to the class later. (You may want to appoint the Chief Justice to save time. One quick way to make the selection is to have students appoint the one whose birthday comes last in the year, the youngest member, etc.) The group should discuss and decide the case. You may need to remind them to pay attention to the facts, the Constitution, the precedent, and the lawyers' arguments. They should also agree on their reasons. If this is not possible in some groups, one or more of the students may offer a minority opinion.

Concluding the Lesson

- Hand out the page titled "The Supreme Court Decides." After students have read it, conduct a brief discussion of the following questions.
  1. What was the majority decision?
  2. What reason(s) did the justices give for their decision?
  3. What reason(s) did the minority justices give for their dissent?
  4. With which side did your group's decision agree?
  5. Were your reasons similar to the Court's?
- Alternatively, you may wish to omit the group discussions. You may instead conclude the lesson with a discussion of these questions based on students' individual answers to "You Decide."

IV-14. YOU BE THE JUDGE: *CAMARA V. THE MUNICIPAL COURT OF THE CITY AND COUNTY OF SAN FRANCISCO*

How do Supreme Court justices arrive at their decisions? What factors do they consider when they decide a case?

In making major decisions, justices usually take four factors into account: (1) the facts of the case, (2) the Constitution, (3) precedents or earlier court decisions in similar cases, and (4) the arguments presented by attorneys for both sides in the case.

You will use these four factors to decide an actual case as Supreme Court justices do. The case involves building inspectors, an angry tenant, the Fourth Amendment, and a conflict between a government's duty to promote public health and an individual's right to privacy. These issues came before the Supreme Court in the case of *Camara v. The Municipal Court of the City and County of San Francisco.*

Facts of the Case

Supreme Court justices have no fact-finding authority similar to that of trial court judges. Rather, they use the facts from the trial court record either to decide if some action or law violated the Constitution or to interpret the meaning of a federal law.

Thus, justices must know the facts to reach a decision. Consider the facts of the *Camara* case, just as the justices did.

Refusing an Inspection. Roland Camara lived on the ground floor of a three-story apartment building in San Francisco. Camara rented part of the ground floor to use it primarily as a bookstore, but he also lived in the rear of his store.

The San Francisco Municipal Code required the Department of Public Health to inspect all apartment houses every year. On November 6, 1963, Inspector Nall went to the premises to make the required inspection. Nall requested permission to enter Camara's apartment. Camara refused to let him in.

Inspector Nall returned on November 8, 1963, and again requested permission to enter and inspect. Camara again refused him.

Action Against Camara. The San Francisco Code neither permitted forced entry or authorized inspectors to obtain search warrants in such situations. Instead, the inspector's office mailed Camara a notice to appear in the District Attorney's office to explain his actions. Camara did not appear and for a third time refused to let inspectors enter his apartment.

Officers then arrested Camara and charged him with a violation of the Municipal Housing Code. He responded to the complaint against him in Municipal Court by arguing that the part of the housing code involved was unconstitutional. Camara lost his case in several lower appeals courts. Finally, in 1967 the Supreme Court heard the case.

The issue that came to the Supreme Court was as follows: **Did the San Francisco building officials have the right to inspect Camara's residence without a search warrant? Or did such inspections violate Camara's Fourth Amendment rights protecting him against "unreasonable searches and seizures"?**

The Constitution

The *Camara* case involved the meaning of the Fourth Amendment protection against "unreasonable searches and seizures." That Amendment says:

> The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Over the years the Supreme Court had defined "unreasonable searches and seizures" to mean any search police officers conducted without a proper warrant. The Court only made exceptions for searches of moving vehicles and searches taking place during an arrest.

The *Camara* case, however, presented a different constitutional question. What about routine fire and health inspections of buildings by city officials like those in San Francisco? These so-called "administrative searches" normally did not involve criminal prosecution. Their purpose was to promote public health and safety.

Did the Fourth Amendment also apply to such inspections? Did the ban against "unreasonable searches and seizures" require public health or fire department officials to obtain search warrants to conduct inspections? Or did the Fourth Amendment protections apply only in criminal cases where people were accused of crimes?

Precedent

To help answer these questions the justices looked to precedents, the decisions of earlier courts in similar cases. How did earlier courts interpret the meaning of the Fourth Amendment?

The case of *Frank v. Maryland* (1959) had established the key precedent. Aaron D. Frank was a homeowner in Baltimore, Maryland. A health inspector found evidence

of rats in the area of Frank's home. He considered these probable cause to justify searching Frank's home. The inspector requested entry to the home. He did not have a search warrant. Frank denied entry claiming the Fourth Amendment protected him.

The Supreme Court ruled against Frank. In the *Frank* case, the Court linked the Fourth Amendment to the Fifth Amendment's ban against forcing a person "in any criminal case to be a witness against himself." It ruled that the main purpose of the Fourth Amendment intended to protect individuals from arbitrary searches conducted as part of criminal investigations. Since the inspector wished to conduct the *Frank* search for the purpose of inspecting for rats, and involved no criminal charges, he did not need a search warrant.

Thus, the *Frank* case set a key precedent. The Fourth Amendment did not require city officials to obtain search warrants for inspections made as part of fire and health inspections. The Fourth Amendment only protected people against "unreasonable" searches where the investigators searched to find evidence for criminal investigations.

The *Frank* precedent meant that if the justices deciding the *Camara* case ruled that health and fire inspections required search warrants, they would overturn the *Frank* case of 1959. They would be deciding that the earlier Court's interpretation of the Constitution in the *Frank* case was wrong. They would be saying that the Fourth Amendment protections applied to people regardless of whether or not they stood accused of crimes.

Arguments by Attorneys

Lawyers for the two sides bringing a case before the Supreme Court present oral arguments and file briefs (written arguments) with the Court. Justices consider these arguments as they apply the Constitution and precedents to the case. You should let them help you decide on a verdict.

Arguments for Camara. The lawyers for Camara argued that the Court should overrule the precedent set by the case of *Frank v. Maryland.* Camara's lawyers interpreted the Fourth Amendment as a broad protection against invasion of privacy by government officials such as the San Francisco inspector. They argued the *Frank* decision had wrongly weakened the Fourth Amendment protection against unreasonable searches and seizures by tying it to the Fifth Amendment.

Camara's lawyers cited numerous precedents to demonstrate the correctness of the broader interpretation of the Fourth Amendment protection. They pointed out that in *Mapp v. Ohio* (1961) the Court had found the provisions of the Fourth and Fifth Amendments were each "complimentary to, although not dependent upon, that of the other."

Arguments for San Francisco. The lawyers for San Francisco and the State of California argued that, "the issue in the case was the right of a local community to enact ordinances requiring the occupant of a residence to submit to routine, duly authorized health inspections, without a warrant." They claimed that the reasoning in *Frank v. Maryland* was consistent with this view.

In addition, they claimed that as there are obvious differences between a health inspection and a search for criminal evidence, each should be subject to different standards. Thus, as long as inspection procedures remained reasonable, as they were in San Francisco, there was no need to require search warrants. Indeed, they argued that requiring search warrants would provide no more protection against inspection and could even lessen a person's privacy if an inspector used a warrant at an inconvenient time.

Amicus Curiae Briefs. In judging important cases, the Supreme Court allows parties with interest in their outcomes to also file briefs even if they are not directly involved in the cases. We call these *amicus curiae*—friend of the Court—briefs.

Three groups filed *amicus curiae* briefs in support of Camara. One, an organization called Homeowners in Opposition to Housing Authoritarianism, argued that no one could actually distinguish between inspections for the public welfare and searches for criminal activity. Thus, the Court should require search warrants in both cases.

Two *amicus curiae* briefs supported San Francisco. The Commonwealth of Massachusetts filed one. Massachusetts argued that search warrants "belong uniquely to criminal law." Since inspectors carry out so many inspections, if the Court required them to obtain warrants, the judges responsible for issuing the warrants would end up simply acting as rubber stamps for inspectors.

EXERCISES FOR IV-14

You Decide

As justices of the Supreme Court do, you have examined the facts, the Constitution, the precedents and the arguments related to the case of *Camara v. The Municipal Court of the City and County of San Francisco.* Now you must make a decision.

To make a decision follow these steps.

1. **Select the side you would rule for.**
   Either:
   a. **Rule for Camara and overturn the Frank case.** Such a ruling would require city inspectors to obtain warrants to enter and inspect private residences if persons inhabiting them refused to let the officers in.
      Meaning of the Constitution. This ruling would broadly interpret protections offered by the Fourth Amendment. You would interpret the Fourth Amendment's ban on "unreasonable searches and seizures" to be independent of the Fifth Amendment and to cover inspections for public safety as well as for criminal investigations.
   Or:
   b. **Rule for San Francisco and uphold the Frank case.** Deciding in favor of San Francisco would allow city officials to enter and inspect private residences, such as Camara's, without search warrants.
      Meaning of the Constitution. This ruling would narrow the interpretation of protections offered by the Fourth Amendment. You would interpret the Fourth Amendment's ban on "unreasonable searches and seizures" to be linked to the Fifth Amendment. Thus, the Fourth Amendment protection would only apply in criminal cases.
2. Identify and briefly list the consequences of your choice for these groups: city inspectors, the owners of apartment buildings, local judges.
3. Prepare an "opinion" by listing the reasons for your choice. Explain your opinion of how your decision relates to the Frank case.

THE SUPREME COURT DECIDES

In 1967, the Supreme Court ruled (6-3) in favor of Camara. Thus the Court overturned *Frank v. Maryland.*

The Majority Opinion. Justice Byron White wrote the majority opinion. He said that the Fourth Amendment intended to protect individuals from arbitrary searches of their homes. "A search of private property without proper consent is 'unreasonable' unless it has been authorized by a valid search warrant."

White declared that general inspections to enforce health and safety codes did not require the use of search warrants. But if an owner refuses to permit a search of his premises, the inspector must secure a warrant to proceed. Thus, the Court adopted a broad interpretation of the Fourth Amendment. It held that an individual does not need to be a suspected criminal to enjoy the protection of the Fourth Amendment.

Justice White drove home his point by stating:

> The final justification suggested for warrantless administrative searches is that the public interest demands such a rule. . . .But we think this argument misses the mark. The question is not, at this stage at least, whether these inspections may be made, but whether they may be made without warrant. . . .The question is not whether the public interest justifies the type of search in question but whether the authority to search should be evidenced by a warrant, which in turn depends in part upon whether the burden of obtaining a warrant is likely to frustrate the governmental purpose behind the search. . . .It has nowhere been argued that fire, health, and housing code inspection programs could not achieve their goals within the confines of a reasonable search warrant requirement.

A Dissenting Opinion. Not all the justices agreed with Justice White. Justice Tom Clark wrote a dissenting opinion. He argued that the Fourth Amendment did not guarantee complete individual privacy. It forbid only "unreasonable" searches. For over 150 years, he noted, courts have allowed municipalities the right to inspect without warrants.

Clark believed that citizens would impede thousands of inspections. He argued that since the majority required municipalities to obtain warrants after each refusal of entry, they would need warrants for nearly every inspection. They would have to print up in pads of a thousand or more, leaving with space to insert street numbers, and would have to issue them in broadcast fashion. This procedure would degrade the search warrant. Clark would have preferred the Court to uphold *Frank v. Maryland.*

APPENDIX G

Two Responses to a Constitutional Crisis:
Decisions Of Buchanan and Lincoln About Secession,
An Exemplar of an Historical Inquiry Lesson

IV-8. TWO RESPONSES TO A CONSTITUTIONAL CRISIS: DECISIONS OF BUCHANAN AND LINCOLN ABOUT SECESSION

LESSON PLAN AND NOTES FOR TEACHERS

Preview of Main Points

This lesson highlights statements of two Presidents—Buchanan and Lincoln—about the constitutional crisis of secession by the southern states. Buchanan and Lincoln responded quite differently. Both Presidents believed that secession was illegal. However, Buchanan seemed to believe that the federal government could do nothing about it. In contrast, Lincoln believed it was his duty as President to act forcefully, if necessary, to defend the Constitution and preserve the Union. The contrasting responses of Buchanan and Lincoln to the crisis of secession reveal contrasting interpretations of the Constitution and the consequences of those different views.

Connection to Textbooks

This lesson fits history textbook chapters on the Civil War. It can be used with government textbook chapters on the presidency, since it presents contrasting views about the constitutional powers of the President.

Objectives

Students are expected to:

1. Identify and explain the conflicting views of the nature of the Federal Union, which was a main cause of secession.
2. Identify and explain the constitutional bases of President Buchanan's response to the threat of secession.
3. Identify and explain the constitutional bases of President Lincoln's response to the fact of secession by several southern states.
4. Compare the responses of Buchanan and Lincoln to the constitutional crisis represented by secession.
5. Analyze comparatively the decisions made by Buchanan and Lincoln about the issue of secession.
6. Practice skills in using evidence in documents to answer questions about constitutional history.

Suggestions for Teaching the Lesson

This lesson might be used in a history course as part of an introduction to the study of the Civil War. Or it might be used in a government course as a "springboard" into examination of how different Presidents have viewed the powers and duties of their office.

Opening the Lesson

- Begin by previewing the main points of the lesson for students. This provides students with advanced notice of the material they are to read.
- Ask students to speculate about responses that a President might and/or should make to the threat of secession. This speculative discussion can serve as a back-drop and warm-up for comparative examination of the responses of two Presidents—Buchanan and Lincoln—to the constitutional crisis of secession.

Developing the Lesson

- Have students read the materials in this lesson. Focus their attention on four documents: the Fourth Annual Message to Congress of President Buchanan, the First Inaugural Address of President Lincoln, the Proclamation of President Lincoln, and the Preamble to the Constitution of the Confederate States of America.
- Have students respond to the questions requiring them to interpret evidence in the four documents listed above.

Concluding the Lesson

- Have students respond to the questions asking them to compare the decisions of Buchanan and Lincoln. Duplicate and distribute two copies of the decision tree for each student in the class. These decision trees can be used as a guide to the comparative analysis of the decisions of Buchanan and Lincoln about the crisis represented by secession.
- Have students make judgments about the decisions of Buchanan and Lincoln in terms of consequences and values.
- As an additional activity, you might want to have students examine and interpret the response of President Jefferson Davis to the forceful actions of President Lincoln to stop secession. To carry out this activity duplicate and distribute a copy of the document on page 226, Jefferson Davis' message to the Congress of the CSA. Use these questions as a guide to the analysis and discussion of this document.

1. What were Jefferson Davis' views about the power that state governments ought to have within a Federal Union? (Compare these ideas to those of the Antifederalists during the debates about ratification of the Constitution.)

2. According to Davis, what were the constitutional bases for secession? (How did the northern states abuse the Constitution so as to cause the southern states to withdraw from the Federal Union?)

3. Why did Davis believe that the southern states had the right to secede and form their own confederation?

4. What were the differences in the views of Davis and Lincoln about the powers of state governments under the Constitution of the U.S.A.?

5. What does Davis' speech reveal about causes of the Civil War?

Suggested Readings

Morris, Richard B. *Great Presidential Decisions.* New York: Harper & Row Publishers, Perennial Library Edition, 1973, 213-250. The decisions of Buchanan and Lincoln about secession are discussed with reference to state papers that were issued to explain and justify these decisions.

MESSAGE TO THE CONGRESS OF THE CONFEDERATE STATES OF AMERICA

April 29, 1861

Gentlemen of the Congress. . . .

The declaration of war made against this Confederacy by Abraham Lincoln, the President of the United States, in his proclamation issued on the 15th day of the present month, rendered it necessary, in my judgment, that you would convene at the earliest practicable moment to devise the measures necessary for the defense of the country. The occasion is indeed an extraordinary one. It justifies me in a brief review of the relations heretofore existing between us and the States which now united in warfare against us. . . .

. . .The Constitution of 1787, having however, omitted the clause. . . from the Articles of Confederation, which provided in explicit terms that each State **retained** its sovereignty and independence, some alarm was felt in the States, when invited to ratify the Constitution, lest this omission should be construed into an abandonment of their cherished principle, and they refused to be satisfied until amendments were added to the Constitution placing beyond any pretense of doubt the reservation by the States of all their sovereign rights and powers not expressly delegated to the United States by the Constitution.

Strange, indeed, must it appear to the impartial observer, but it is none the less true that all these carefully worded clauses proved unavailing to prevent the rise and growth in the Northern States of a political school which has persistently claimed that the government thus formed was not a compact **between** States, but was in effect a national government, set up **above** and **over** the States. An organization created by the States to secure the blessings of liberty and independence against **foreign** aggression, has been gradually perverted into a machine for their control in their **domestic** affairs. The **creature** has been exalted above its **creators;** the **principals** have been made subordinate to the **agent** appointed by themselves. The people of the Southern States, whose almost exclusive occupation was agriculture, early perceived a tendency in the Northern States to render the common government subservient to their own purposes by imposing burdens on commerce as a protection to their manufacturing the shipping interests. . . . By degrees, as the Northern States gained preponderance in the National Congress, self-interest taught their people to yield ready assent to any plausible advocacy of their right as a majority to govern the minority without control. They learned to listen with impatience to the suggestion of any constitutional impediment to the exercise of their will, and so utterly have the principles of the Constitution been corrupted in the Northern mind that, in the inaugural address delivered by President Lincoln in March last, he asserts as an axiom, which he plainly deems to be undeniable, that the theory of the Constitution requires that in all cases the majority shall govern;. . .This is the lamentable and fundamental error on which rests the policy that has culminated in his declaration of war against these Confederate States. . . .

. . .the transaction of public affairs was impeded by repeated efforts to usurp powers not delegated by the Constitution for the purpose of impairing the security of property in slaves, and reducing those States which held slaves to a condition of inferiority. . . .

. . .In the exercise of a right so ancient, so well-established, and so necessary for self-preservation, the people of the Confederate States, in their conventions, determined that the wrongs which they had suffered and the evils with which they were menaced required that they should revoke the delegation of powers to the Federal Government which they had ratified in their several conventions. They consequently passed ordinances resuming all their rights as sovereign and independent States and dissolved their connection with the other States of the Union.

Having done this, they proceeded to form a new compact amongst themselves by new articles of confederation, which have been also ratified by the conventions of the several States with an approach to unanimity far exceeding that of the conventions which adopted the Constitution of 1787. They have organized their new Government in all its departments; the functions of the executive, legislative, and judicial magistrates are performed in accordance with the will of the people, as displayed not merely in a cheerful acquiescence, but in the enthusiastic support of the Government thus established by themselves; and but for the interference of the Government of the United States in this legitimate exercise of the right of a people to self-government, peace, happiness, and prosperity would now smile on our land. . . .

Jefferson Davis

IV-8. TWO RESPONSES TO A CONSTITUTIONAL CRISIS: DECISIONS OF BUCHANAN AND LINCOLN ABOUT SECESSION

"LINCOLN ELECTED PRESIDENT" read the headlines in American newspapers on November 6, 1860. Abraham Lincoln's election signaled a constitutional crisis. Leaders in several southern states threatened to secede, or withdraw, from the Federal Union.

Buchanan's Decision About a Constitutional Crisis

Lincoln would not take office until March 4, 1861. Thus, the outgoing President, James Buchanan, faced the problem of secession during the four months between Lincoln's November election and his March inauguration. On December 3, 1860, President Buchanan delivered his last annual message to Congress. He offered his opinion of how the federal government should respond to secession by one or more states.

FOURTH ANNUAL MESSAGE

Washington City
December 3, 1860

Fellow-Citizens of the Senate and House of Representatives:

. . . it is beyond the power of any President, no matter what may be his own political proclivities, to restore peace and harmony among the States. Wisely limited and restrained as is his power under our Constitution and laws, he alone can accomplish but little for good or for evil on such a momentous question. . . .

The question fairly stated is, Has the Constitution delegated to Congress the power to coerce a State into submission which is attempting to withdraw or has actually withdrawn from the Confederacy [Federal Union]? If answered in the affirmative, it must be on the principle that the power has been conferred upon Congress to declare and to make war against a State. After much serious reflection I have arrived at the conclusion that no such power has been delegated to Congress or to any other department of the federal government. It is manifest upon an inspection of the Constitution that this is not among the specific and enumerated powers granted to Congress, and it is equally apparent that its exercise is not "necessary and proper for carrying into execution" any one of these powers. . . .

Without descending to particulars, it may be safely asserted that the power to make war against a State is at variance with the whole spirit and intent of the Constitution. . . .

The fact is that our Union rests upon public opinion, and can never be cemented by the blood of its citizens shed in civil war. If it cannot live in the affections of the people, it must one day perish. Congress possesses many means of preserving it by conciliation, but the sword was not placed in their hand to preserve it by force.

But may I be permitted solemnly to invoke my countrymen to pause and deliberate before they determine to destroy this the grandest temple which has ever been dedicated to human freedom since the world began? . . .

Congress can contribute much to avert it by proposing and recommending to the legislatures of the several States the remedy for existing evils which the Constitution has itself provided for its own preservation. This has been tried at different critical periods of our history, and always with eminent success. It is to be found in the fifth article, providing for its own amendment. Under this article amendments have been proposed by two-thirds of both Houses of Congress, and have been "ratified by the legislatures of three-fourths of the several States," and have consequently become parts of the Constitution. . . .

This is the very course which I earnestly recommend in order to obtain an "explanatory amendment" of the Constitution on the subject of slavery. This might originate with Congress or the State legislatures, as may be deemed most advisable to attain the object. The explanatory amendment might be confined to the final settlement of the true construction of the Constitution on three special points:

1. An express recognition of the right of property in slaves in the States where it now exists or may hereafter exist.

2. The duty of protecting this right in all the common Territories throughout their Territorial existence, and until they shall be admitted as States into the Union, with or without slavery, as their constitutions may prescribe.

3. A like recognition of the right of the master to have his slave who has escaped from one state to another restored and "delivered up" to him, and of the validity of the fugitive-slave law enacted for this purpose. . . .

. . . . Such an explanatory amendment would, it is believed, forever terminate the existing dissensions, and restore peace and harmony among the States.

Lincolns' Decision About a Constitutional Crisis

On December 20, seventeen days after President Buchanan's speech, the state government of South Carolina seceded from the Federal Union. Keeping with the view expressed in his speech, President Buchanan did nothing to oppose South Carolina. During the next few weeks, six more southern states seceded: Florida, Georgia, Alabama, Mississippi, Texas, and Louisiana. By March 3, 1861, Lincoln's inauguration day, the Federal Union was in grave danger. In his Inaugural Address, Lincoln announced his plan to respond to the constitutional crisis.

FIRST INAUGURAL ADDRESS

It is seventy-two years since the first inauguration of a President under our National Constitution. During that period fifteen different and greatly distinguished citizens have in succession administered the executive branch of the Government. They have conducted it through many perils, and generally with great success. Yet, with all this scope of precedent, I now enter upon the same task for the brief constitutional term of four years under great and peculiar difficulty. A disruption of the Federal Union, heretofore only menaced, is now formidably attempted.

I hold that in contemplation of universal law and of the Constitution the Union of these States is perpetual. Perpetuity is implied, if not expressed, in the fundamental law of all national governments. It is safe to assert that no government proper ever had a provision in its organic law for its own termination. Continue to execute all the express provisions of our National Constitution, and the Union will endure forever, it being impossible to destroy it except by some action not provided for in the instrument itself.

Again: If the United States be not a government proper, but an association of States in the nature of contract merely, can it, as a contract, be peaceably unmade by less than all the parties who made it? One party to a contract may violate it—break it, so to speak—but does it not require all to lawfully rescind it? . . .

It follows from these views that no State upon its own mere motion can lawfully get out of the Union; that **resolves** and **ordinances** to that effect are legally void; and that acts of violence within any State or States against the authority of the United States are insurrectionary or revolutionary, according to circumstances.

I therefore consider that in view of the Constitution and the laws the Union is unbroken, and to the extent of my ability I shall take care, as the Constitution itself expressly enjoins upon me, that the laws of the Union be faithfully executed in all the States. Doing this I deem to be only a simple duty on my part, and I shall perform it so far as practicable unless my rightful masters, the American people, shall withhold the requisite means or in some authoritative manner direct the contrary. I trust this will not be regarded as a menace, but only as the declared purpose of the Union that it **will** constitutionally defend and maintain itself. . . .

Plainly the central idea of secession is the essence of anarchy. A majority held in restraint by constitutional checks and limitations, and always changing easily with deliberate changes of popular opinions and sentiments, is the only true sovereign of a free people. Whoever rejects it does of necessity fly to anarchy or to despotism. Unanimity is impossible. The rule of a minority, as a permanent arrangement, is wholly inadmissible; so that, rejecting the majority principle, anarchy or despotism in some form is all that is left. . . .

In **your** hands, my dissatisified fellow-countrymen, and not in **mine**, is the momentous issue of civil war. The Government will not assail **you.** You can have no conflict without being yourselves the aggressors. **You** have no oath registered in heaven to destroy the Government, while **I** shall have the most solemn one to "preserve, protect, and defend it."

I am loath to close. We are not enemies, but friends. We must not be enemies. Though passion may have strained it must not break our bonds of affection. The mystic chords of memory, stretching from every battlefield and patriot grave to every living heart and hearthstone all over this broad land, will yet swell the chorus of the Union, when again touched, as surely they will be, by the better angels of our nature.

March 4, 1861

By this time any compromise that might hold the Union together no longer interested the seven states of the deep South. They aimed to form a new nation, the Confederate

States of America (CSA). The preamble to the Constitution of the CSA stated:

> We, the people of the Confederate States, each State acting in its sovereign and independent character, in order to form a permanent federal government, establish justice, insure domestic tranquility, and secure the blessings of liberty to ourselves and our posterity—invoking the favor and guidance of Almighty God—do ordain and establish this Constitution for the Confederate States of America.

The CSA claimed and occupied property and territory belonging to the United States. This property included military forts the United States government had built in the South to protect the nation. On April 14, 1861 Confederate troops began shelling Ft. Sumter, a federal fortification situated in the harbor of Charleston, South Carolina. The next day President Lincoln issued the following proclamation.

By the President of the United States

A PROCLAMATION

Whereas the laws of the United States have been for some time past and now are opposed and the execution thereof obstructed in the States of South Carolina, Georgia, Alabama, Florida, Mississippi, Louisiana, and Texas by combinations too powerful to be suppressed by the ordinary course of judicial proceedings or by the powers vested in the marshals by law:

Now, therefore, I, Abraham Lincoln, President of the United States, in virtue of the power in me vested by the Constitution and the laws, have thought fit to call forth, and hereby do call forth, the militia of the several States of the Union to the aggregate number of 75,000, in order to suppress said combinations and to cause the laws to be duly executed.

The details for this object will be immediately communicated to the State authorities through the War Department.

I appeal to all loyal citizens to favor, facilitate, and aid this effort to maintain the honor, the integrity, and the existence of our National Union and the perpetuity of popular government and to redress wrongs already long enough endured.

I deem it proper to say that the first service assigned to the forces hereby called forth will probably be to repossess the forts, places, and property which have been seized from the Union; and in every event the utmost care will be observed, consistently with the objects aforesaid, to avoid any devastation, any destruction of or interference with property, or any disturbance of peaceful citizens in any part of the country.

And I hereby command the persons composing the combinations aforesaid to disperse and retire peaceably to their respective abodes within twenty days from this date.

Deeming that the present condition of public affairs presents an extraordinary occasion, I do hereby, in virtue of the power in me vested by the Constitution, convene both Houses of Congress. Senators and Representatives are therefore summoned to assemble at their respective chambers at 12 o'clock noon on Thursday, the 4th day of July next, then and there to consider and determine such measures as, in their wisdoms, the public safety and interest may seem to demand.

In witness whereof I have hereunto set my hand and caused the seal of the United States to be affixed. Done at the city of Washington, this 15th day of April, A.D. 1861, and of the Independence of the United States the eighty-fifth.

Abraham Lincoln

By the President:

William H. Seward, Secretary of State

EXERCISES FOR LESSON IV-8

Interpreting Evidence in Documents

1. Examine the Preamble to the Constitution of the CSA. Compare it to the Preamble of the Constitution of the USA. Then answer these questions:
   a. What is the main difference between the two Preambles?
   b. What two different views of the powers of state governments in the Federal Union are revealed in the two Preambles?
   c. What do the differences in the two Preambles tell us about one of the causes of the Civil War?
2. Review President Buchanan's Message to Congress to find answers to the following questions.
   a. What critical constitutional issue faced President Buchanan?
   b. According to President Buchanan, what constitutional powers and duties did he possess for dealing with the critical issues facing him?

c. What did President Buchanan propose should be done to settle the critical constitutional issue facing him? Why?

3. Review President Lincoln's First Inaugural Address to find answers to these questions.

   a. What critical issues faced Abraham Lincoln as he entered the presidency?

   b. According to President Lincoln, what constitutional powers and duties did he posses in dealing with the critical issue facing him? Why?

   c. What did President Lincoln propose should be done to settle the critical constitutional issue facing him? Why?

4. Review President Lincoln's Proclamation of April 15, 1861, to find answers to these questions.

   a. The President's Proclamation focused on what main idea?

   b. Why did the President take the actions described in his Proclamation?

   c. Were the President's actions in accordance with the Constitution? Or did they violate it?

Comparing the Decisions of Buchanan and Lincoln

Use the decision tree on page 231 to help you answer the following questions.

1. a. What occasion to make a major decision faced President Buchanan in December 1860?

   b. What occasion to make a major decision faced President Lincoln in March 1861?

   c. Explain the similarities and differences inherent in the respective occasions for decision the two Presidents faced?

2. a. What alternatives did Buchanan identify?

   b. What alternatives did Lincoln identify?

   c. List the similarities and differences Buchanan and Lincoln perceived in the alternatives they identified.

3. a. Which alternative did Buchanan choose? Why?

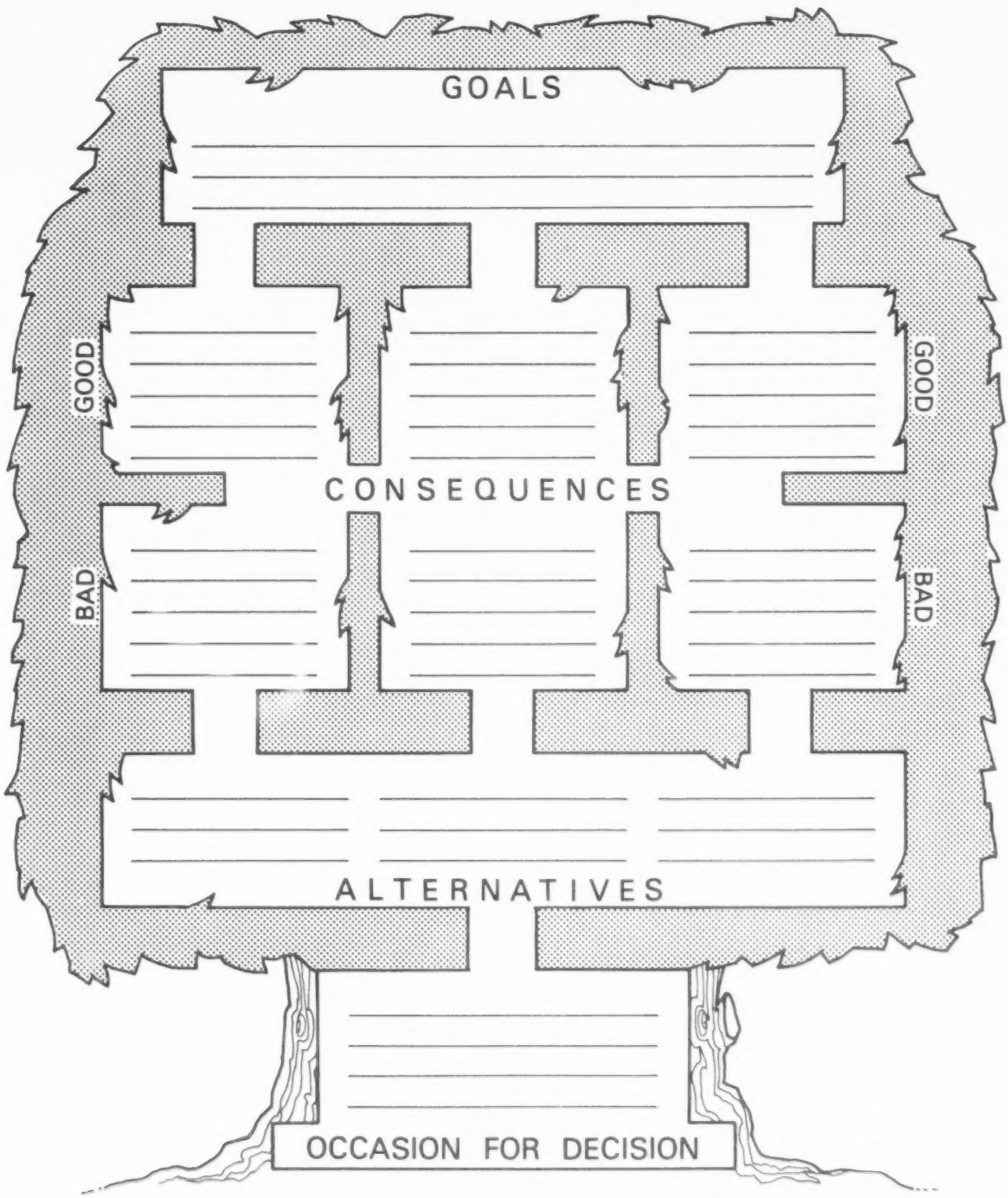
   b. Which alternative did Lincoln choose? Why?

   c. Compare the choices of Buchanan and Lincoln. Explain how the choices and their consequences are similar or different.

4. a. What is your judgment of Buchanan's decision? Why?

   b. What is your judgment of Lincoln's decision? Why?

DECISION TREE



The decision-tree device was developed by Roger LaRaus and Richard C. Remy and is used with their permission.

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ERIC Resources on Teaching About the Constitution

The items in this list include an ED number, which identifies them as resources in the ERIC (Educational Resources Information Center) system. These resources are available in microfiche and/or paper copy from the ERIC Document Reproduction Service (EDRS). For information on prices write to EDRS, 3900 Wheeler Avenue, Alexandria, Virginia 22304. Abstracts and descriptive information on these ERIC documents are published in *Resources in Education* (RIE). Most ERIC documents are available for viewing in microfiche at libraries that subscribe to the ERIC collection.

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Amendments to the Constitution. Castle Creek, New York: Redcomp Services. TRS80 Mod I/III (16K cassette). Students compete to match key concepts to the appropriate constitutional Amendments. High school.

American Government. Highland Park, Illinois: Micro Learningware. Apple, TRS80 Mod III/IV, TRS80 Color. Topics in this tutorial program include the three branches of government, citizenship and immigration, the Constitution, the electoral process, and state and local government. Junior/senior high school.

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Knowledge Master—Government. Durango, Colorado: Academic Hallmarks. Apple. Four hundred questions form the basis for generating objective tests on forms and history of government, Declaration of Independence, Articles of Confederation, Constitution, Amendments, separation of powers and more. The utility disk prints questions, allows the teacher to modify tests, and prints tests and answer keys. Junior high to adult.

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Supreme Court Decision. Bridgeport, CT: Intellectual Software. Apple, IBM (TRS80 version available from Social Studies School Service). Simulation

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U.S. Constitution. Staten Island, NY: Classroom Consortia Media, Inc. IBM PC/PCjr, color monitor. The U.S. Constitution and the Bill of Rights are examined through tutorials; factual recall is aided by crossword puzzles and a practice test. Simulated trials illustrate a number of amendments. Middle school to high school.

The U.S. Constitution: Nationalism and Federalism. Garden City, NY: Focus Media. Apple. Disk 1: The Development of the Constitution; Disk 2: The Creation of the Constitution; Disk 3: Testing Your Knowledge of the U.S. Constitution. Two tutorial programs and one games disk dealing with (disk 1) the changing nature of sovereignty from colonial government through the Articles of Confederation, (disk 2) controversial debates during the Constitutional Convention, and (disk 3) recall of information from disks 1 and 2. Junior and senior high school.

The U.S. Constitution: Our Guarantee of Liberty. Bridgeport, CT: Thoroughbred Educational Software (Intellectual Software). Apple //e with extended 80-column card (128K), 1 disk drive, color monitor; IBM. Tutorial program covering the Constitution and Preamble, Articles I-VII, and the Bill of Rights. Includes on-line multiple choice check-up, crossword puzzles, and a case study for applying the provisions of the Fourteenth Amendment. Junior high to adult.

U.S. Constitution: Then and Now. Jefferson City, MO: Scholastic Publishing Company. Apple (requires AppleWorks database program, Apple, Inc.). The two disks contain a number of databases, word processing documents, and spreadsheets relating to the Constitution. Documentation includes lesson plans and a guide to textbook correlation. One unit focuses on the Constitutional Convention, while the other is a contemporary case study relating to students' right to privacy. Junior/senior high school.

U.S. Constitution Tutor. Highland Park, IL: Micro Learn (division of MicroLab). Apple, IBM, Commodore 64. A test preparation program for reviewing U.S. government and Constitution facts and concepts. May be used in tutorial or test mode, presented by topic or by level of difficulty. High school.

U.S. Government. Palo Alto, CA: American Educational Computer. Apple, IBM, Commodore. Facts about U.S. government are conveyed through matching of words and phrases. Self-paced lessons of adjustable length may be expanded with additional material. Junior high to adult.

U.S. Government. Hampton, VA: Sliwa Software. Apple, IBM PC/PCjr. The three branches of government are explored, their functions, powers and significance. Factual recall focuses on government operations and historical events that have influenced the evolution of U.S. government. High school to adult.

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